
(2014) 01 RAJ CK 0177
In the Rajasthan High Court
Case No : Civil Writ Petition No. 21080/2013

Birdilal

APPELLANT

Vs

Board of Revenue

RESPONDENT

Date of Decision : 17-01-2014

Acts Referred:

Rajasthan Tenancy Act, 1955 — Section 175, 42

Citation : (2014) 3 WLN 275

Hon'ble Judges : M.N. Bhandari, J

Bench : Single Bench

Advocate : Madhu Sudan Sharma, Advocate for the Appellant

Final Decision : Dismissed

Judgement

M.N. Bhandari, J.—Learned counsel for the petitioner submits that without undertaking a process to dispossess the petitioner, an order was passed under Sec. 175 of the Rajasthan Tenancy Act. In view of above, the impugned orders passed against the petitioner may be set aside. It is more so when the land in dispute exists in the name of the petitioner with possession. I have considered the submissions made by the learned counsel for the petitioner and perused the record.

2. The facts of the case are that a land measuring 8 Bigha 16 Biswa was belonging to Smt. Shankari. After her death, the mutation was opened in the name of Natti Bai and Kaila Bai. After the death of Natti Bai, a revision petition was filed. It was alleged that without taking note of the possession of the petitioner and in ignorance of the provisions of Section 42 of the Act, an order was passed declaring the property to vest in the Government. The learned Court below passed the order, which finally travelled to the Board of Revenue. It has decided the revision petition vide its order Dt. 04.10.2013. It was found that Smt. Shankari Bai sold the land to one Mohan Bai in violation of Section 42 of the Act. In view of the aforesaid, the entry was cancelled and the land was registered in the name of the Government. The said Smt. Mohan Bai later on sold the land

to one Abdul Razzak. Since transfer of the land to Smt. Mohan Bai was itself illegal and hit by Section 42 of the Act, thus, Abdul Razzak had no right to maintain the entry and the possession. In view of the aforesaid, no illegality was found in the earlier orders so as to entertain the revision petition.

3. Learned counsel for the petitioner has not dissuaded that the land was sold to Smt. Mohan Bai, who was not belonging to Scheduled Caste, but was of the General Caste. The same was hit by Section 42 of the Act and in that case, vests in the Government. The Court below passed a detailed order after considering the facts aforesaid. Once an order was passed taking note of Section 42 of the Act, then the application under Sec. 175 of the Rajasthan Tenancy Act was maintainable. The application aforesaid was rightly allowed. I find no error in any of the orders challenged by the petitioner. The writ petition and the stay application are accordingly dismissed.