
(1999) 04 RAJ CK 0023

In the Rajasthan High Court

Case No : Civil Writ Petitions No"s. 1671 to 1675 of 1997

Brij Lal

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 12-04-1999

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (1998) 3 WLC 148 : (1999) 1 WLN 519

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.J. Shethna, J.—All these petitions are disposed of by this common order as the points involved in this petition are the same and all these writ petitions are filed against the impugned common order dated 29.3.1997 passed in different revision petitions by the Addl. District Collector; Nohar district Hanumangarh.

2. On 24.9.1997 by public auction, the petitioners were allotted Pattas of land by the then Sarpanch of Gram Panchayat. The same were challenged by way of revision petitions only in 1996 by the State as well as the private respondents before the Addl. District Collector, Nohar, Hanumangarh. They were allowed by the learned Addl. District Collector by his impugned common order dated 29.3.1997 on the ground that there was a clear breach of Rules 256, 257, 258 and 265 of the Panchayat Rules and that it was a public school land. The said impugned common order dated 29.3.1997 is challenged in above petitions.

3. Learned Counsel Shri Sharma for the petitioners in all these petitions vehemently submitted that even if there was breach of some of the Panchayat Rules while issuing Patta by auction even then such allotment cannot be disturbed and set aside after more than six years. He submitted that there is not a iota of evidence to show that it was a public school land. He further submitted that the allotment order was appealable under Rule 17 and no appeal was filed

against the said order, therefore, revision petitions ought not to have been entertained by the Additional District Collector. He further submitted that on allotment the petitioners had already put up the constructions on the land. He submitted that there was a gross delay of six years in filing the revision petition against the allotment of Patta. He, therefore, submitted that on the peculiar facts and circumstances of the case, the impugned order passed by the Addl. Collector is required to be quashed and set aside.

4. However, learned Counsel Shri Bishnoi for the State and Shri I.R. Choudhary for the private respondents vehemently submitted that while passing the impugned common order, the Addl. Collector has not committed any error which calls for any interference by this court in its jurisdiction under Article 227 of the Constitution of India. It was submitted by them that no appeal was maintainable against the order of allotment of Patta. It was also submitted that even if the appeal was maintainable then also it was not necessary that appeal should have been filed. Under Rule 272 of the Rules read with Section 27-A of the Act of Rajasthan Panchayat Act, 1953, revision was maintainable. It was also submitted that in absence of any period of limitation prescribed for filing revision, the revision petition was filed late, but only on the ground that it was filed after a period of six years on that ground alone this Court cannot interfere with the order passed by the Addl. Collector. It was also submitted that in this case Pattas of public land were granted to the petitioners without following any procedure as prescribed under the Rules by the then Sarpanch of the Gram Panchayat, therefore, the Additional Collector rightly interfered with the said order in revision and set aside the same by his impugned order. Reliance was also placed on the Division Bench judgment of this Court in case of Dhanraj and Anr. v. Addl. Collector, Ganganagar 1995 DNJ 458.

5. In Dhanraj's case, uncontroverted facts were that the sale by the Gram Panchayat was in favour of the persons who were relatives of the then Sarpanch. The land was in public use for a long time and it was situated in the middle of the village and sale was surreptitious and not by public auction in the manner prescribed. That is not the case here. The facts of the present case are totally different. None of the petitioner is alleged to be relative of the then Sarpanch of the Panchayat. The sale was by public auction on the same day and in accordance with the procedure prescribed. Only because everything was done on one day that itself would not be a factor to interfere with the order of allotment after delay of about six years. It is also true that revision in absence of appeal was maintainable but it is clear that instead of availing a statutory right of appeal, for the reasons best known to the State and other private respondents, revision was filed against the order of grant of Pattas after as many as six years. During this period, the petitioners have already raised construction on the land. This aspect of the case was not at all considered by the Addl. Collector while allowing the revision. It is true that there is no period of limitation prescribed for filing the writ petition. When no period of limitation is provided then it has to be filed within a reasonable period. Reasonable period depends upon the facts of

each case. It can be at the most one or two years as held by this Court in several decisions as well as by the Hon''ble Supreme Court. In the instant case, gross delay of six years, which totally remains unexplained, was sufficient for the Addl. Collector to refuse to exercise his jurisdiction. Unfortunately, the learned Addl. Collector has not at all considered this aspect of the matter.

6. In view of the above discussion, this petition is allowed, the impugned common order dated 29.3.1997 passed by the Addl. Collector in allowing the revision petitions is hereby quashed and set aside. No order as to costs. Stay order granted, if any, in this case, stands vacated.