
(2014) 04 RAJ CK 0064

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 1183/2011

Daulat Prakash

APPELLANT

Vs

The Board of Revenue

RESPONDENT

Date of Decision : 04-04-2014

Acts Referred:

Rajasthan Tenancy Act, 1955 — Section 53, 88, 89, 90

Citation : (2014) 4 WLN 219

Hon'ble Judges : Amitava Roy, C.J.;Veerender Singh Siradhana, J

Bench : Division Bench

Advocate : J.P. Goyal, Sr. Advocate assisted by Manisha Surana, Advocate for the Appellant; S.C. Gupta, Advocate for the Respondent

Judgement

Amitava Roy, C.J.—The subject matter of challenge, in the instant appeal, is the judgment and order dt. 11.7.2011 passed in S.B.Civil Writ Petition No. 7741/2008 declining to grant the appellant/writ petitioner the relief, as sought for, to annul the orders dt. 24.12.1997 and 25.1.2008 passed by the learned Revenue Appellate Authority, Kota and the learned Board of Revenue, Rajasthan respectively, in the appeals filed by him. We have heard Mr. J.P. Goyal, learned senior counsel assisted by Ms. Manisha Surana for the appellant/writ petitioner and Mr. S.C. Gupta, learned counsel for the respondent No. 3.

2. The recorded facts, in brief, are that the appellant/writ petitioner on 05.03.1964, had made an application for allotment of an agricultural land measuring 6 bigha & 8 biswas bearing khasra No. 94 (later, renumbered as No. 138, 139 & 140) in his name before the Tehsildar, Baran, and on 30.6.1964, the same was allotted to him, and a patta was issued. According to the appellant/writ petitioner, the patta was issued only in his name. He however, has alleged that one Mohan Lal, the father of respondent No. 3, who was a patwari in the Tehsil Baran, by practicing fraud, managed to incorporate his (Om Prakash) name also in the patta. Having come to learn of this manipulation, the appellant/writ petitioner thereafter, made a complaint with the jurisdictional Tehsildar.

According to him, Om Prakash, the respondent No. 3 also instituted a suit under Secs. 88, 89, 90 & 53 of the Rajasthan Tenancy Act, 1955 pleading that the land involved was joint in nature, and that, there was a mutual oral partition thereof several years back, and further, he was in possession of a portion thereof. The suit was eventually dismissed for default.

3. Be that as it may, on the complaint filed by the appellant/writ petitioner, the Collector, Baran instructed the Tehsildar, Baran to conduct an enquiry, who by his letter No. 1874/94 dt. 24.12.1992, submitted a report, and eventually, the Collector, Baran, by order dt. 29.11.1994, ordered the cancellation of the entry of the name of the respondent No. 3 in the patta. Being aggrieved, the respondent No. 3 filed an appeal before the Revenue Appellate Authority, Kota, the respondent No. 2, and by order dt. 24.12.1997 rendered in Appeal No. 19/95/Baran, the same was allowed and the order dt. 29.11.1994 of the Collector, Baran was set aside. Being dissatisfied, the appellant/writ petitioner took the challenge before the learned Board of Revenue, Rajasthan in Appeal/LR/28/98/Baran(754/98), which too was dismissed. The appellant/writ petitioner, having unsuccessfully challenge these orders before the learned Single Judge, is in appeal for redress.

4. Mr. Goyal has emphatically urged that the Collector, Baran, on a consideration of the report submitted by the Tehsildar, Baran on the complaint of the appellant/writ petitioner, having cancelled the entry of the name of the respondent No. 3 in the patta, otherwise validly issued in the name of the appellant/writ petitioner, the decisions to the contrary are per se unsustainable in law and on facts, and are thus liable to be interfered with. As the land involved had been in exclusive possession of the appellant/writ petitioner at all relevant times, and that, on his application, the competent authority had allotted the same to him, and had also issued patta, the insertion of the name of the respondent No. 3 was an evident act of manipulation, and thus, the learned Revenue Appellate Authority and the learned Board of Revenue, having patently erred to sustain such entry, the learned Single Judge ought to have interfered therewith. In course of the arguments, when queried by this Court, the learned senior counsel for the appellant/writ petitioner however, did not press the plea that, in law, joint patta cannot be issued under any circumstances.

5. We have examined the pleaded facts and the documents on record. We have analyzed as well the arguments advanced.

6. As would transpire from the decisions rendered by the learned Revenue Appellate Authority and the learned Board of Revenue, both these forums noticed that after the allotment had been made, on 30.6.1964, in the joint names of the appellant/writ petitioner and the respondent No. 3 in the year 1970, a complaint was made by the appellant/writ petitioner alleging misuse of authority by Mohan Lal, the father of the respondent No. 3, who was, at the relevant time, a patwari, in securing the allotment also in his (respondent No. 3) name. That, on the basis of due enquiry, the said authority did return a finding exonerating Mohan Lal of

the charge, was noted. In the year 1977, khatedari rights had also been granted on the basis of joint patta. It was thereafter, that in the year 1992, as noticed by these forums, the appellant/writ petitioner did file an application before the Collector, Baran contending that the name of the respondent No. 3 had been wrongly entered in the patta. Apart from noticing the delay on the part of the appellant/writ petitioner in filing this application, both the revenue forums did concurrently conclude that there was no bar on the issuance of joint patta in the names of the members of a family of any employee of the revenue department. The Revenue Appellate Authority, in addition, held that the application for allotment of land was in the name of both the appellant/writ petitioner and the respondent No. 3, bearing their signatures.

7. The learned Single Judge, as the impugned judgment and order would reveal, on an analysis of the materials on record, not only, did reject the imputation of manipulation of records by the father of the respondent No. 3 for his (respondent No. 3) benefit, it was noticed as well that the father of the respondent No. 3 was exonerated of this charge in a departmental enquiry, and on the completion of the police investigation into the FIR on the same allegation, a final report had also been filed. The challenge was thus, negated.

8. On a scrutiny of the pleadings, the documents on record as well as the decisions rendered hereinabove on the issue now seeking adjudication, we are of the unhesitant opinion that in the attendant facts and circumstances, no interference therewith is called for. Not only, according to us, the determinations made by the learned Revenue forums and the learned Single Judge are based on necessary and correct appreciation of all relevant aspects, factual and legal, the concurrent findings recorded, do not admit of any interference, in the exercise of this Court's appellate jurisdiction. The conclusions are all borne out by contemporaneous records and backed by the facts disclosed thereby. We thus see no cogent or convincing reason to hold a different view. The appeal lacks in merit and is dismissed. The stay application also stands rejected.