

(2018) 12 RAJ CK 0319
In the Rajasthan High Court
Case No : Special Appeal Writ No. 1694 Of 2018

Deen Dayal And Ors

APPELLANT

Vs

Shankar Bhawan Grah Nirman Sahkari Samiti Ltd And Ors

RESPONDENT

Date of Decision : 15-12-2018

Acts Referred:

Land Revenue Act, 1956 — Section 90B

Citation : (2018) 12 RAJ CK 0319

Hon'ble Judges : Munishwar Nath Bhandari, J; Banwari Lal Sharma, J

Bench : Division Bench

Advocate : SN Kumawat

Final Decision : Disposed Off

Judgement

This special appeal has been filed to challenge the order dated 06th December, 2018 passed by learned Single Judge in a review petition on challenge to the order passed by the Divisional Commissioner, Jaipur. It is on the proceedings under Section 90B of the Land Revenue Act, 1956 (for short "the Act of 1956").

Learned Single Judge found that the Prescribed Authority has passed the order without waiting for the record so summoned by it on earlier date for its perusal.

From the facts on record, it was found by the Divisional Commissioner that the record had not come before the Prescribed Authority yet the order was passed. It did not, however, remand the case. The order of the Divisional Commissioner was thus set aside with remand of the case to the Prescribed Authority, as it failed to remand the case. The appellants, herein, filed a review petition with an application for condonation of delay. Learned Single Judge dismissed the application for condonation of delay of 787 days and finding no merit in the review petition. It was held that review jurisdiction cannot be exercised for rehearing of the factual matrix and merit.

We find that while deciding the writ petition, learned Single Judge has caused interference in the order passed by the Divisional Commissioner for the reason

that while interfering in the order passed by the Prescribed Authority, it did not remand the matter. The matter has thus been remanded to the Prescribed Authority for decision afresh.

The only ground raised by learned counsel for the appellants is in regard to observation about sale of the land in dispute.

We find that when the matter has been remanded to the Prescribed Authority for afresh decision without recording any finding on merit of the case, apprehension of the appellants is uncalled for but, for the clarity, we direct that the Prescribed Authority would consider each issue after hearing the parties to the litigation and, for that, to consider the documents.

With the aforesaid, the special appeal is disposed of without causing interference in the order passed by learned Single Judge on the review petition as well as writ petition.