

(1978) 11 RAJ CK 0032

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2049 of 1973

Deeparam and Others

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-11-1978

Acts Referred:

Administration of Evacuee Property Act, 1950 — Section 2

Constitution of India, 1950 — Article 226

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 12

Citation : (1978) WLN 400

Hon'ble Judges : S.C. Agrawal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.C. Agrawal, J.—The petitioners in this petition under Article 226 of the Constitution are displaced persons who have migrated to India from Pakistan in 1947. As part of compensation payable to them for the property left by them in Pakistan, the Managing Officer Sri Ganganagar, allotted to the petitioners lands measuring 100 Bighas in Khasra Nos. 60, 101 and 87 in village Jiwandesar in revenue tehsil Anupgarh. The said lands originally formed part of the Jagir of Chhatargarh & were recorded in the names of Mohamed Iyar, Kalu and Jan Mohd in the revenue records prepared in Samwat 2003-2004. The case of the petitioners is that the said Muslim Khatedars migrated to Pakistan some time in March, 1947 and the said lands became evacuee property u/s 2(2) of the Bikaner State Evacuee Administration of Property Order, 1948 as well u/s 2(f) of the Administration of the Evacuee Property Act, 1950 & the said evacuee property vested in the Central Govt. u/s 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, and formed part of the compensation pool established for the purpose of rehabilitation of displaced persons. As the Tehsildar (Revenue) Anupgarh & the Tehsildar Colonisation, Rajasthan Canal Project, Anupgarh (Gharsana) failed to deliver the possession of the lands allotted to the petitioners by the Managing Officer u/o dated 28-2-1966 & preceded to allot the same to

other persons, the petitioners filed this petition for the issue of a writ restraining the respondents from allotting any part of the land in question to any person in, any manner and also for the issue of writ, direction or order, directing the respondents to hand-over the possession of the said land to the petitioners.

2. In the reply to the writ petition filed on behalf of the respondents, it is claimed that lands in dispute belonged to Capt Prince Amersinghji of Chattargarh Estate and that the said estate has vested in, the State under the Rajasthan Land Reforms and Resumption of Jagirs Act, 1954. As no action was taken regarding declaration of the said lands as evacuee property prior to the vesting of the estate in the State, the said lands, could not be declared as evacuee property by the Central Government and they did not vest in the Custodian. In the said reply it is claimed that Tehsildar, Anupgarh was justified in refusing to give possession of land to the petitioners and it was as further stated that the Tehsildar, Colonisation, Gharsana, is fully competent to make orders for temporary or permanent allotment of the lands in dispute to eligible lands-less persons and that such allotments were being made in accordance with the Rajasthan Colonisation (Temporary Cultivation leases) Conditions, 1955 since the year 1971-72.

3. The question that arises from the pleadings of the parties is whether the lands in dispute had become evacuee property under the law relating to the declaration of Evacuee Property which was in operation in the erstwhile State of Bikaner and whether it is open to the State Government to challenge the order of allotment dated 28th February, 1966 passed by the Managing Officer, Shri Ganganagar whereby the lands in dispute have been allotted to the petitioners on the footing that the state was evacuee property and had vested in the Central Government under the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. Similar question arose before this Court in *Smt. Raiibai v. Union of India* and *Ors. S.B. Civil Writ Petition No. 159/1973* decided on 30-8-1978, wherein it has been held that if the State Government has failed to take step to challenge the orders of the Managing Officer, allotting a particular land on the footing that it was evacuee property and forms part of the compensation pool, it is not open to the State Government to ignore the said order. The aforesaid decision is fully applicable to the facts of the present case and it is therefore, held that the respondents are not entitled to ignore the order dated 28th February, 1966 passed by the Managing Officer, Sri Ganganagar, allotting the lands in dispute to the petitioners and to allot the said lands, either temporarily or permanently to other persons.

4. The writ petition is, therefore, allowed and a writ is issued, directing the respondents to comply with the order dated 28th February, 1966 passed by the Managing Officer, Shri. Ganganagar, allotting the lands to the petitioners. The respondents are further restrained from allotting the lands covered by order dated 28th February, 1966 to any other person. There will be no order as to costs in this petition.