
(2019) 07 RAJ CK 0081
In the Rajasthan High Court
Case No : Civil Writ Petition No. 11182 Of 2019

Firoz

APPELLANT

Vs

District Collector, Nagaur And Ors

RESPONDENT

Date of Decision : 25-07-2019

Acts Referred:

Citation : (2019) 07 RAJ CK 0081

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Rohitash Singh Rathore

Final Decision : Dismissed

Judgement

By way of the present writ petition, the petitioner has sought following reliefs:-

â??A. By an appropriate writ, order or direction the order (Annex.7) by which objection filed by the petitionerâ??s mother before the respondent

Municipal Council Nagaur for not issuing Patta in favour of the Usman Gani, was rejected, may kindly be quashed and set aside.

B. By an appropriate writ order or direction the Patta dated 22.11.2012 (Annex.8) issued in favour of the Usman Gani and Munni Bano may kindly be quashed and set aside. Revisional order dated.7.7.2014 (Annex.10) may kindly be set aside.

C. By an appropriate writ order or direction the sale deed dated 18.02.2019 (Annex.12) executed in favour of the respondents Sita Ram may kindly be quashed and set aside.

D. By an appropriate writ order or direction the respondent may kindly be directed to not to dispossess the petitioner from premises in dispute and not to create any obstacles and interference.

D. Any other appropriate writ, order or direction which this Honâ??ble Court may deem just and proper in the facts and circumstances of the case

may kindly be passed in favour of the petitioner.â??

The facts appertain to the present writ petition are that the petitionerâ??s mother was allegedly having possession of Shop in Tigari Bazar, near Hathi

Chowk, Nagaur.

The respondent No.2 applied for grant of patta in relation to the shop, in which petitionerâ??s mother Jamila Bano was having possession. In

furtherance of the said application, when objections were invited, petitionerâ??s mother Jamila Bano raised objection and contended that she is in possession.

The respondent Municipal Council, Nagaur, however, rejected her objection holding inter alia that respondents Nos.2 and 3 are having possession over

40 years (Annex.7) and proceeded to grant patta in favour of respondents Nos.2 and 3 on 22.11.2012 under the Rajasthan Government Grant Act, 1916.

The petitioner preferred a revision petition before the District Collector, Nagaur challenging the patta aforesaid, which came to be rejected by him,

vide his order dated 07.07.2014, holding that the respondents Nos.2 and 3 were having possession over the contentious shop.

Assailing the order passed by the Municipal Council, Nagaur, duly affirmed by the District Collector, Nagaur, learned counsel contended that both the

authorities have not properly appreciated the evidence and held that the possession of the contentious shop was not with the petitionerâ??s mother

and with respondents Nos.2 and 3. He further argued that as per Conditions of order dated 15.09.1983, since the petitioner/ his mother has raised an

objection; hence there was a bonafide dispute and thus the respondent ought not to have issued patta in the respondentsâ?? favour or it was

prohibited under Clause 4 of the order dated 15.09.1983. Inviting attention of this Court towards a sale-deed executed by respondent No.2 in favour of

one Sita Ram on 18.02.2019 and the correction-deed dated 27.05.2019, learned counsel pointed out that the respondents Nos.2 and 3 have

categorically stated that the shop in question is in possession of Firoz, i.e. the petitioner and argued that the stand of the respondents Nos.2 and 3 was

absolutely false as far as their assertion about possession is concerned.

I have heard learned counsel for the petitioner and perused the material on record.

The present writ petition has been filed on 19.07.2019 laying challenge to the order dated 07.07.2014, passed by the District Collector. There is no explanation worth the name for the inordinate delay of 5 years.

The petitioner's contention that the shop in question was commercial and thus does not fall in Para No.1 of the order dated 15.09.1983, is not

tenable inasmuch as the same restricts grant of patta only in case of agricultural land. The shop in question, situated in the municipal limit, is definitely

in abadi land. Hence, there was no impediment in issuing patta.

In a bid to deal with petitioner's argument about point No.4 of the order dated 15.09.1983, it would be apt to refer and reproduce the same:-

4. In case of land which is under dispute or for which legal proceedings are pending in any law court or before any authority, no patta shall be

issued until the case is finally decided.

In considered opinion of this Court, the above referred clause is applicable only in case(s) where the dispute or legal proceedings is pending; merely

because the petitioner's mother raised her objection in furtherance of the notice inviting objection, ipso facto does not render does not render the

plot to be in dispute. In the present case, the petitioner has not pointed out as to whether any litigation or proceedings were pending between the

petitioner and respondents Nos.2 and 3. If the interpretation, as proposed by the learned counsel for the petitioner is accepted, then in each case

irrespective of the correctness of objection, patta cannot be issued. Such interpretation would thwart the process of grant of patta. Clause 4 will apply

on when the dispute of possession between the parties is pending before Courts of law.

Adverting to the petitioner's last argument that in correction-deed dated 27.05.2019, there is an admission of the respondents Nos.2 and 3

regarding petitioner's possession; this Court accepts the position that it proves the falsehood of the assertion of the respondents Nos.2 and 3 as far

as their claim of their possession is concerned; however, on the basis of a fact, which has emerged after 5 years, the correctness of the patta granted

on 22.11.2012 and the order dated 07.07.2014, passed by the District Collector, cannot be examined.

Viewed from any angle, I find no force in the writ petition. The same is hereby dismissed.

The Stay Application No.11089/2019 also stands dismissed.