
(2017) 04 RAJ CK 0175
In the Rajasthan High Court
Case No : 761 of 2016

Gomaram

APPELLANT

Vs

Kukaram & Ors.

RESPONDENT

Date of Decision : 27-04-2017

Acts Referred:

[Rajasthan Panchayati Raj Act, 1994](#), Section 97

Citation : (2017) 04 RAJ CK 0175

Hon'ble Judges : Govind Mathur, Vinit Kumar Mathur

Bench : DIVISION BENCH

Advocate : Bharat Devasi, Shanker Rajpurohit

Judgement

1. This appeal is before us to examine correctness of order dated 28.7.2016 passed by learned Single Bench dismissing S.B. Civil Writ Petition No.8283/2016.
2. In brief, facts of the case are that the Gram Panchayat, Baderawas, Panchayat Samiti, Pali granted a "patta" for a piece of land in favour of appellant-petitioner on 03.9.2004. A challenge to the same was given by way of filing a revision petition by the respondents Shri Kukaram and Shri Bhagaram with assertion that the land pertaining to which "patta" is granted is a part of path (way), therefore, was not open for allotment. The appellant-petitioner while contesting the revision petition submitted that the entire issue has already been adjudicated by a civil court in a suit preferred by him to have a permanent and mandatory injunction. The learned Collector vide order dated 02.6.2015 accepted the revision petition and set aside the "patta" granted by the Gram Panchayat, Baderawas and remanded the matter with a direction to reconsider the entire matter afresh and while doing so to take into consideration the findings arrived by civil court in the suit preferred by the petitioner.
3. The order passed by the Collector came to be upheld by the learned Single Bench under an order dated 28.7.2016. The learned Single Bench while dismissing the writ petition noticed that the Collector himself has protected rights

of the petitioner while directing the Gram Panchayat to take into consideration the judgment and decree passed by the civil court while examining the matter pertaining to grant of the "patta" in-question.

4. Heard learned counsel for the parties.

5. As already stated, the sole argument of the petitioner is that the issue in-question was not open for the Collector to adjudicate under Section 97 of the Rajasthan Panchayati Raj Act, 1994 as the same was adjudicated by a civil court. The judgment passed by the learned civil court is available on record as Annex.3, from a perusal whereof it reveals that though an issue was there about issuance of "patta" to the present petitioner but the issue as to whether that was granted by adhering the Rules has not been examined. In view of it, we do not find any merit in the argument that the Collector was having no authority to examine the issue in-question being already decided by the civil court. It is further relevant to notice that the Collector while accepting the revision petition in quite unambiguous terms directed the Gram Panchayat to keep in mind all the issues decided and the findings arrived by the civil court while re-examining the issue pertaining to grant of "patta" to the petitioner. In light of it, we do not find any wrong with the order passed by the learned Single Bench that may warrant interference in appellate jurisdiction. The appeal is dismissed, however, to further protect rights of the appellant-petitioner we deem it appropriate to direct the respondent ? Gram Panchayat and all the parties to the proceedings to not to change any position with regard to the land in-question till disposal of the entire issue by the Gram Panchayat concern. It is expected that the Gram Panchayat shall reconsider the entire matter expeditiously as far as possible within a period of six months from today.