(2010) 10 RAJ CK 0005

In the Rajasthan High Court

Hanuman Singh and Another — APPELLANT

Vs

The State of Rajasthan and Others — RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Citation : (2010) 10 RAJ CK 0005

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—As per the petitioners, the land in dispute was under gair khatedari tenancy of late Shri Ganesha Ram. After death of whom, the same was recorded in the name of his son Dula Ram. Later on, the land was recorded as Government land without any order passed by the competent authority. Shri Dula Ram, thus, preferred a suit before the Sub-Divisional Officer in the year 1996 and that was decreed. The land was ultimately purchased by the present petitioners on 14.3.2010 from aforesaid Dula Ram. The respondent No. 2 Rajasthan State Industrial Development and Investment Corporation Limited (RIICO) preferred an appeal before the Revenue Appellate Authority on 26.4.2010 to challenge the judgment and decree dated 3.10.2005, passed by the Sub-Divisional Officer. The appeal came to be allowed by setting aside the judgment and decree aforesaid. The petitioners preferred an appeal before the Board of Revenue under an order dated 3.8.2010, however, no ex-parte interim order was passed and the stay application was adjured for hearing after receiving the record from the trial court.

2. While challenging the order dated 3.8.2010, it is contended by learned Counsel for the petitioner that once the Board of Revenue admitted the appeal being involving substantial questions, then the propriety demands that the interim order as prayed should have been granted. The argument is substantiated by Division Bench judgment of this Court in DBCWP No. 2077/92 (Shri Srawan Singh and Ors. v. Shri Bhajan Singh and Ors.). The Division Bench

in the judgment aforesaid held that the Board of Revenue should not decline for interim order once it finds that the matter involve a substantial question to be decided by it.

3. In the instant matter, the stay application has yet not been rejected by the Board of Revenue. The Board of Revenue under the order dated 3.8.2010 admitted the appeal and called for record for considering the stay application on 6.9.2010. On 6.9.2010, the petitioner or his counsel did not choose to appear before the Board and therefore, the matter was adjourned for 20.9.2010. On that day also counsel for the petitioner or the petitioner himself did not choose to appear, as such, the matter was again adjourned. It is really strange that the petitioner voluntarily did not appear before the Court and now alleges that an interim order should have been granted as prayed for. As a matter of fact, the very edifice of the case that the Board has declined to grant the interim order falls as the stay petition is yet pending. The petitioner can very well pursue the same before the Board of Revenue itself. In such circumstance, I am having no hesitation in saying that this petition for writ is not only frivolous but is fundamentally misconceived. The same, therefore, is dismissed with a cost of Rs. 1000/-.