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**(2016) 05 RAJ CK 0102**

**In the Rajasthan High Court**

**Case No :** Civil Special Appeal (Writ) No. 991 of 2015 In Civil Writ Petition No. 4242 of 2003

Janki Lal & Anr. APPELLANT

Vs

Revenue Board, Rajasthan & Ors. RESPONDENT

**Date of Decision :** 10-05-2016

**Acts Referred:**
Rajasthan Tenancy Act, 1955 — Section 42(b)

**Citation :** (2016) 3 DNJ 1071 : (2016) RRD 612 : (2016) 4 WLN 489 : (2016) 4 WLN 119

**Hon'ble Judges :** Mr. M.N. Bhandari and Mr. J.K. Ranka, JJ.

**Bench :** Division Bench

**Advocate :** Mr. R.P. Garg with Mr. Subham Jain, Advocates, for the Appellant; Mr. Ravi Chirania, Advocate, for the Respondent

**Final Decision :** Disposed Off

## Judgement

1. With the consent of learned counsel for both the parties, this special appeal is heard finally.

2. An order passed by the Board of Revenue was challenged by the appellants herein. It was on dismissal of the appeal and thereupon review preferred before the Board of Revenue. The writ petition preferred by the appellants was dismissed finding that at the time of sale of land, seller was member of Schedule Caste, thus sale was hit by Section 42(b) of Rajasthan Tenancy Act, 1955 (for short "Act of 1955").

3. Learned counsel for the appellants submits that at the time of sale of land in village Kadayanohar, Tehsil Chhabra, the seller was not falling in the category of Schedule Caste as Notification for it was issued subsequent to the sale.

4. Referring to the transaction of sale, it is submitted that sale deed was executed on 22nd May, 1974 on a consideration of Rs. 13000/-. In the year 1986, the plaintiff appellants maintained suit for declaration and permanent

injunction in the Court of Sub Divisional Magistrate, Chhabra. The suit was decided vide order dated 07th July, 1993 holding that sale is through registered sale deed dated 22nd May, 1974 but is hit by Section 42(b) of the Act of 1955.

5. The non-appellant-seller has produced the Notification to show that he was included in the category of Schedule Caste prior to the execution of sale deed dated 22nd May, 1974.

6. Learned counsel for the appellants, however, submitted that even if the sale was hit by Section 42(b) of the Act of 1955, it should revert to the Government by a proceeding under Section 175 of the Act of 1955 but learned Single Judge has failed to consider this aspect of the matter, thus necessary modification in the judgment be made.

7. Learned counsel for the respondent?Seller submits that there is no error in the judgment of learned Single Judge. The sale is hit by Section 42(b) of the Act of 1955. In view of the above, land be reverted to the non appellant-seller or if at all it is to be reverted to the Government, then only to the extent of 2 Bighas of the land sold to the appellants.

8. We have considered the submissions made by learned counsel for the parties and scanned the matter carefully.

9. The facts in brief have already been narrated, thus need not to be reiterated.

10. A sale deed was executed on 22nd May, 1974 when the seller was falling in the category of Schedule Caste. The issue aforesaid was considered and decided by the SDM, Chhabra followed by appellate revenue courts. The Board of Revenue did not interfere in the order finding sale hit by Section 42(b) of the Act of 1955.

11. The only argument now is that even if the sale is hit by Section 42(b) of the Act of 1955, the land to the extent of sale deed be reverted to the Government. There is no dispute about the effect of the sale hit by Section 42(b) of the Act of 1955. It would revert to the Government to the extent of sale.

12. We find that sale was in violation of Section 42(b) of the Act of 1955 and as a consequence of it, it would revert to the Government. What is the area of land is not required to be specified by the Court because it is specified in the sale deed. As a consequence of any sale in violation of Section 42 (b) of the Act of 1955, it is to be reverted to the Government and accordingly, while maintaining the judgment of learned Single Judge, we hold that to the extent of sale of land in violation of Section 42(b) of the Act of 1955, the proceedings should be completed as per direction of the revenue courts to revert the land to the government.

13. With the aforesaid, this special appeal stands disposed of.

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