
(2015) 03 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3711/2014

Kailash Chand

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 02-03-2015

Acts Referred:

Rajasthan Land Revenue Act, 1956 — Section 82
Rajasthan Tenancy Act, 1955 — Section 232

Citation : (2016) 1 WLN 259

Hon'ble Judges : Alok Sharma, J.

Bench : Single Bench

Advocate : K.N. Sharma and Govind Sharma, for the Appellant; Rambabu Chaturvedi, Rajesh Sharma and Mahendra Pareek, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Alok Sharma, J.—This petition has been filed against the order dated 14.2.2014 passed by the Board of Revenue, Rajasthan, Ajmer (hereinafter "the Board") dismissing the reference made under section 232 of the Rajasthan Tenancy Act, 1955 (hereinafter "the Act of 1955") inter-alia on the ground that the provisions of Act of 1955 did not apply to the case under consideration and proceedings in issue by way of reference made by the Additional Collector could only have been taken under section 82 of the Rajasthan Land Revenue Act, 1956 (hereinafter "the Act of 1956").

2. Mr. K.N Sharma counsel appearing for the petitioner submits that though the petitioner was not a party to the proceeding before the Board yet as the matter pertains to the property of Shri Thakur Ji (Bihari Ji) Maharaj Mandir a deity and a perpetual minor situate in Village Ladpur Tehsil Kotkasim, the petitioner as a worshipper at the Mandir, has moved an application 147 of the Rajasthan High Court Rules, 1952 (hereinafter "the Rules of 1952") seeking permission to agitate this petition. He submits that it is well settled that a deity is a perpetual minor and the land standing in its name cannot be transferred or mutated in

favour of another more so without any decree of the Court or lawful conveyance such as under the Hindu Minority and Guardianship Act, 1956 (hereinafter "the Act of 1956"). It has been submitted that the respondents No. 4 to 6 have unlawfully come into purported khatedari of the lands in dispute on the basis of an unauthorized and completely illegal mutation made in the record of rights in the course of settlement operations with the collusion of the Revenue Department/Officers. Counsel submits that it is an admitted fact that in the record of rights for Smvt. 2010-2014 the recorded khatedar was Shri Thakur Ji (Bihari Ji) Maharaj Mandir but subsequently the record of rights was altered in favour of one Ramkaran Das Chela Devidas Swami as the purported khatedar. It has been submitted that in these circumstances to sustain the khatedari of the successors of the said Ramkaran Das Chela Devidas Swami is wholly illegal and the land is in law liable to be reverted to the khatedari of Shri Thakur Ji (Bihari Ji) Maharaj Mandir.

3. Reply to the petition has been filed by the State Government supporting the case of the petitioner. It has been stated that the land in question is Mandir Inam Land and as per the revenue records of Smvt. 2010-2014 it was recorded in the name of Shri Thakur Ji (Bihari Ji) Maharaj Mandir. It has also been admitted that subsequently in the settlement operations without any legal ground whatsoever, the aforesaid land was unauthorizedly and illegally recorded in the name of Ramkarandas Chela Devidas and thereafter based on his purported will in favour of one Laxmi Devi w/o Chhajuram. Following the death of Laxmi Devi the disputed lands stand today in the name of the successors of Mst. Laxmi. It has been stated that in the circumstances corrective measures as available in law are liable to be taken for restoring the khatedari in the name of the deity, Shri Thakur Ji (Bihari Ji) Maharaj Mandir. It has been submitted that all these factual aspects of the case have been ignored by the Board while passing the impugned order dated 14.2.2014. Thus the order passed by the Board is per se, arbitrary and erroneous. It has been submitted that in-fact following the order dated 14.2.2014 passed by the Board, a fresh case under section 82 of the Rajasthan Land Revenue Act, 1956 (hereinafter "the Act of 1956") has been registered on 15.2.2014 by the jurisdictional Addl. Collector, notice thereon has been issued for 6.8.2014 and a reference thereupon likely to be made.

4. Mr. Rambabu Chaturvedi counsel for the respondents No. 4 to 6 submits that the respondents and their predecessors in interest have been in possession of the land for the last 40 years and cultivating it by the sweat of their brow, developed it. A belated reference on whatever count is most unjust. Reference to the Board under section 232 of the Act of 1955 at a belated stage was clearly not warranted. It has been submitted that the impugned order dated 14.2.2014 passed by the Board is wholly legal, valid as the order of reference was also wrongly made under the Rajasthan Tenancy Act and further the Board was not entitled to entertain the reference as it was made to the Land Record Officer. The Board has therefore rightly dismissed the reference.

5. Having heard the counsel for the parties and perused the impugned order dated 14.2.2014 passed by the Board, I am of the considered opinion that fresh proceedings under section 82 of the Land Revenue Act, 1956 having been taken by the jurisdictional Addl. Collector, it would suffice to dispose of the present petition holding that the newly instituted reference under the Act of 1956 will not be obstructed in any manner whatsoever either in law or fact by the impugned order dated 14.2.2014 passed by the Board as the judgment is fundamentally founded upon a misdirected resort to Rajasthan Tenancy Act and not to the applicable Land Revenue Act. It is made clear that in the course of proceedings now taken against the respondents No. 4 to 6 under the Rajasthan Land Revenue Act, they shall be free to set up up all their defences and agitate their rights whatsoever in accordance with law.

6. The writ petition stands disposed of accordingly.