
(2010) 10 RAJ CK 0063
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6196 of 2009

Kan Singh and Others

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Rajasthan Tenancy Act, 1955 — Section 46(1), 82

Citation : (2010) 10 RAJ CK 0063

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—By the judgment dated 1.5.2008, learned Board of Revenue, Rajasthan, Ajmer accepted the reference made to it by Additional Collector, Pali under an order dated 26.3.1998, and ordered to enter the land in dispute in the name of Mandir Shri Charbhuj Ji in the revenue record.

2. While challenging the same, contention of the learned Counsel for the petitioners is that the land in dispute was entered in the name of Shri Chaturbhuj Singh, father of the petitioners long back in the year 1954 and as such, no reference could have been made as per Section 82 of the Rajasthan Tenancy Act, 1955 (for short "the Act of 1955" hereinafter) after a lapse of 30 years. To support the contention, reliance is placed on a Division Bench judgment of this Court, reported in 1996 DNJ 100.

3. From perusal of the order of reference dated 26.3.1998 and the order impugned dated 1.5.2008, it is apparent that the land in dispute was in the name of Mandir Shri Charbhuj Ji from Samwat 2002 to 2010 and subsequent thereto also which was shown in the name of deity from Samwat 2018 to 2021. The name of Shri Chaturbhuj Singh was entered in the revenue records without any valid order in Samwat 2022 and that was not at all permissible as per provisions of Section 46(1)(a) of the Rajasthan Tenancy Act, 1955.

4. True it is, that a delay is caused in making reference but that is of no consequence in view of the fact that entry of Shri Chaturbhuj Singh in the revenue record as tenant relating to the land in dispute is void ab initio and no delay or period of time expired, creates any right in favour of Shri Chaturbhuj Singh, and then any corresponding right in favour of the petitioners.

5. I do not find any wrong with the order impugned in view of the fact that the land in dispute was in the name of Mandir Shri Charbhuj Ji from beginning and in quite dubious circumstance it was recorded in the name of Shri Chaturbhuj Singh in the revenue records.

6. For the reasons above, the petition for writ having no merit, therefore, the same is dismissed.