
(2016) 05 RAJ CK 0074

In the Rajasthan High Court

Case No : .Civil Writ Petition No. 2736 of 2003

Lacha Ram & Anr.

APPELLANT

Vs

State of Rajasthan & Ors.

RESPONDENT

Date of Decision : 20-05-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

Citation : (2016) 3 DNJ 1149

Hon'ble Judges : Mr. Arun Bhansali, J.

Bench : Single Bench

Advocate : Mr. Anil Bhandari, Advocate, for the Appellant; Mr. Pritam Solanki, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Arun Bhansali, J.—An application has been filed by the applicants ? Smt. Sangeeta Ben & others for impleadment as party petitioners in the present writ petition.

2. It is inter alia submitted in the application that the land which is subject matter of the present writ petition has been purchased by the applicants by way of registered sale deed on 2/7/2007 and, therefore, the applicants being necessary parties, be permitted to be impleaded as petitioners. Along with the application, a copy of the registered sale deed has been filed.

3. Learned counsel for the applicants submits that as during the pendency of the writ petition, the applicants have purchased the property in question, they are necessary parties and may be impleaded as petitioners.

4. Reliance has been placed on Thomson Press (India) Pvt. Ltd. v. Nanak Builders & Investors Pvt. Ltd., 2013 (2) CDR 265 (SC).

5. Counsel for the petitioners submits that the petitioners do not want to continue with the writ petition and want to withdraw the same and an application

in this regard has been filed today.

6. A perusal of the record indicates that the land in question was auctioned by Bhumi Vikas Bank, Raniwara, District Jalore under the provisions of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 ('the Act'). The land belonged to one Janu, who belongs to Scheduled Tribe and the land was transferred to the petitioners, who does not belong to Scheduled Tribe and on that account, the Additional Collector, Jalore made a reference to the Board of Revenue under Section 82 of the Rajasthan Land Revenue Act, 1956.

7. The Board of Revenue by the impugned order dated 27/3/2003 came to the conclusion that the transfer being in violation of the provisions of Section 42 (b) of the Rajasthan Tenancy Act, 1955 ('the Tenancy Act'), the same was liable to be set aside and consequently set aside the transfer dated 26/7/1995 and the mutation was also cancelled. It was left open for the Bank to undertake fresh auction.

8. Feeling aggrieved, the petitioners filed the present writ petition, wherein, by order dated 10/6/2003 it was ordered that the petitioners shall not be dispossessed, if not already dispossessed.

9. Where after, it appears that the transfer has taken place in the year 2007 in favour of the applicants. From the sequence of events, as already noticed herein before, it is apparent that the transfer made in favour of the petitioners had already been set aside by the Board of Revenue and this Court while admitting the writ petition had only stayed the dispossession, therefore, cancellation of transfer in favour of the petitioners was very much there and consequently no transfer essentially could have taken place in favour of the applicants, who also do not belong to Scheduled Tribe.

10. The Full Bench of this Court in State of Rajasthan v. Uka & Ors, 2010 (3) RLW 2636 categorically laid down that transfer in violation of Section 42 (b) of the Tenancy Act even under the Act of 1974, cannot be countenanced and held that such transfer would be void.

11. In view of the above state of affairs, where the applicants were well aware of the fact that transfer in favour of the petitioners had already been cancelled by the Board of Revenue inasmuch as while registering the transfer deed, the Sub Registrar specifically made a reference to the pendency of the present writ petition, the transfer made in favour of applicants is of no effect, besides the fact that the transfer in favour of petitioners themselves was void and same has been declared as such by the Board of Revenue and that there was no interim order of this Court qua the cancellation and in these circumstances, irrespective of the law laid down in the case of Thomson Press (supra), the applicants cannot be impleaded as party to the present litigation.

12. The application for impleadment filed by the applicants is, therefore, dismissed.

13. The petitioners have filed an application seeking withdrawal of the writ petition.

14. In view of the fact that the petitioners have already transferred the land in question to the applicants, whose application has already been dismissed by this Court, the application appears to be not bona fide. In view thereof, the said application is also dismissed.

15. However, in view of the law laid down by this Court in the case of Uka (supra), there is no substance in the writ petition and same is, therefore, dismissed.