

(2016) 12 RAJ CK 0054
In the Rajasthan High Court
Case No : Civil Writ No. 12960 of 2016

Madan Lal

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 15-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 WLCRajUC 223 : (2017) 1 WLN 190

Hon'ble Judges : Mr. Sandeep Mehta, J.

Bench : Single Bench

Advocate : Mr. Chaitanya Gahlot, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Sandeep Mehta, J. - By way of this writ petition, the petitioners herein have approached this Court claiming the following relief:

"I] by an appropriate writ, order or direction in the nature of certiorari/ mandamus, the respondents no. 1 to 4 may kindly be restrained to proceed in pursuance of Annex. 6 dated 01.9.2016 for allotment of the land in-question for the purpose of Sainik Basti at Taranagar, District Churu, so also to maintain status quo on the land as well as the Scheme in-question Or In The Alternative, the respondents may kindly be directed to ascertain are and location of the lands in- question of the petitioners and the proforma respondents, under the patta (Annex. 1) Samvat 1936 (approximate year 1879) of Miti Bhadva Badi 8 and sale-deed (Annex. 2) of Bhadwa Badi 8 Samvat 1968 (approximate year 1911) respectively maintaining status quo on the land in-question under the Scheme for Sainik Basti, Taranagar, till it is ascertained amicably and legitimately.

2. The petitioners claim to be successors of one Shri Bhuramal Baid who, allegedly acquired a chunk of land admeasuring 200 bighas in the Village Moja Reni, District Churu in the later part of the eighteenth century. The patta of the disputed land was allegedly issued in favour of Shri Bhuramal Baid in Samvat

1936 (approximately year 1879). The petitioners further claim that with efflux of time and after more than hundred years of death of Shri Bhuramal Baid, the petitioners herein and the perform respondents No.5 to 8 are the only remaining legal heirs of Shri Bhuramal and stake claim in his properties through inheritance. It is further asserted by the petitioners that with passage of time and after formation of the Rajasthan State, Moja Reni came to be named as Tara Nagar City and the land in question came within its Municipal limits. The petitioners claim to have settled out of the State of Rajasthan mainly in the States of Telangana and West Bengal for the purpose of earning livelihood. It is asserted that owing to the lack of physical control of the descendants of Shri Bhuramal Baid, part of the land mentioned above, came to be declared as Kabristan and Shamshan. Part of the land was allotted by the District Collector, Churu as a playground to be used by the Government Sanskrit Primary School, Tara Nagar. The petitioners, and the perform respondents, looking to the welfare of the state and public at large, did not agitate against such action. It is further claimed that taking advantage petitioners' benevolence, the respondent No.4 Municipal Board, Tara Nagar, fraudulently and illegally took possession of the entire remaining land inherited by petitioners for the purpose of developing an Exservicemen Colony. The petitioners further claim that when they agitated against this attempt of the respondents Municipal Body in usurping their land by approaching the concerned authorities, they were assured that they would be allotted an alternative piece of land in lieu thereof. Upon this, and being satisfied by their assurance of the competent authorities, the petitioners acquiesced to the land being taken over for public purposes. However, despite a period of nearly 15 years having passed from the assurance was given by the authorities to allocate alternate land and compensate the petitioners, no steps have been taken in this regard till date. The petitioners claim to have approached the authorities for seeking appropriate action against the unlawful and forceful acquisition of their land. But till date, no action has been taken on the petitioners' pleas upon which, the instant writ petition has been filed.

3. Shri Chaitanya Gahlot, learned counsel for the petitioner vehemently contended that patta of the land was duly issued in favour of the petitioners' ancestor Bhuramal Baid after he purchased the same for valid consideration. The petitioners being the successors of Shri Bhuramal Baid, having inherited the land are entitled to seek protection of their rights on their lawfully owned land. However, the respondent authorities are acting in an absolutely high-handed fashion and, valuable land inherited by the petitioners is being usurped part by part without compensating them and without following the due process of law. He thus urges that the writ petition should be allowed in the terms prayed for.

4. I have heard and considered the arguments advanced by the learned counsel for the petitioners and have gone through the material available on record.

5. There is no material on the record so as to satisfy the court that the land in question which is now admittedly within the domain of the Municipal Board, Tara

Nagar was ever owned by a person named Shri Bhuramal Baid. The case set up by the petitioners in this regard is totally conjectural and nothing but a figment of imagination. Furthermore, there is no material whatsoever to satisfy the Court that the petitioners are actually the successors of Shri Bhuramal Baid. That being the position, this Court feels that the endeavour of the petitioners in filing this writ petition is nothing short of a fraudulent attempt to lay claim on public land. From the pleadings of the writ petition and documents filed therewith, it is evident that not even a single written application or representation has ever been submitted by the petitioners to any public authority for staking a claim on the land in question on the basis of inheritance. It is inconceivable that if the petitioners were having even a semblance of claim on the land in question, then they would have allowed the priceless chunk of land to be squandered away by acquiescence as averred by them in this writ petition. Evidently, the petitioners somehow got hold of a patta allegedly issued to Shri Bhuramal Baid for a land falling in Mauja Reni and taking advantage of similarity in their castes, they have made this fraudulent endeavour of laying claim on government land by attempting to mislead the court into believing that the land is one and the same of which the patta was issued to Shri Bhuramal Baid.

6. Consequently, the writ petition as well as stay application being frivolous and vexatious are hereby dismissed with a cost of Rs. 50,000/-. The cost upon being realised be deposited in the funds of the Rajasthan State Legal Service Authority.