

(1999) 09 RAJ CK 0036

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1735 of 1996

Mst Harku and Others

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 09-09-1999

Acts Referred:

Citation : (1999) 09 RAJ CK 0036

Hon'ble Judges : B.J. Shethna, J.

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Heard the learned Counsel for the parties.

2. The petitioners have challenged in this petition the decree passed by the Trial Court in favour of the plaintiffs-respondents which was confirmed in the appeal by the R.A.A. and in second appeal by the Board of Revenue also as per the impugned orders at Annexs. 6, 7 and 8 respectively.

3. On appreciation of evidence, all the three courts below have concurrently found against the petitioners that they committed trespass, therefore, the suit was decreed in favour of the plaintiffs-respondents and the defendants-petitioners were asked to hand over the vacant possession.

4. Ordinarily, this Court is slow in interfering with the finding of the fact arrived at by the Courts below in its jurisdiction under Article 227 of the Constitution. Going through the reasons assigned by the Courts below in their judgments, it cannot be said that they committed any error either on facts or law or jurisdictional error which is required to be corrected by this Court under Article 227 of the Constitution.

5. Learned Counsel Mr. Purohit submitted that the suit filed by the plaintiffs-respondents was time barred. This submission of Mr. Purohit cannot be accepted for the simple reason that they committed trespass over the land on 2.7.1978

and immediately, the suit was filed in 1978 itself on the basis of the A.R.O.'s decision.

6. Mr. Purohit then submitted that the A.R.O. had no jurisdiction to confer the Khatedari rights to the plaintiffs. He submitted that no decree can be passed on the basis of the Khatedari rights in favour of the plaintiffs. In support of his submission Mr. Purohit has relied upon a Supreme Court judgment in the case of Sushil Kumar Mehta Vs. Gobind Ram Bohra (Dead) through his Lrs., Sushil Kumar's case was arising out from the Rent Control Act proceedings filed between the landlord and tenant. It has been held by the Supreme Court that even if a decree which is made without jurisdiction and is a nullity is allowed by the courts below to operate and is executed during pendency of SLP, then Supreme Court would grant relief to the aggrieved party from injustice by setting aside the execution order. It may be stated that the A.R.O.'s order was challenged by the petitioners but the challenge to the same failed and thereafter it was not carried further. Thus, it has become final. By no stretch of imagination, it can be said that the A.R.O.'s order was a nullity. The Supreme Court's jurisdiction is very wide under Article 142 of the Constitution. The powers of High Court under Article 227 of the Constitution are very narrow and limited as held by the Supreme Court in the case of Mohd. Yunus Vs. Mohd. Mustaqim and Others, where the Supreme Court has gone to that extent that the High Court cannot correct even error of law committed by the Courts below.

7. Apart from this, there is thumping evidence in favour of the respondents including the compromise entered between the parties which was signed by none else then the defendant deceased Multana Ram - husband of the petitioner No. 1 on the question of possession. Above that, there was other documentary evidence in favour of the respondents and relying upon the oral as well as documentary evidence if the three courts below have passed decree in favour of the respondents then certainly, this Court will not interfere with such order in a petition under Article 227 of the Constitution.

8. In view of the above discussion, this petition fails and accordingly, it is dismissed. Interim relief granted earlier stands vacated forthwith.