

(2014) 05 RAJ CK 0208
In the Rajasthan High Court
Case No : Civil Special Appeal No. 626/2014

Narayan Lal

APPELLANT

Vs

The Board of Revenue, Ajmer and Others

RESPONDENT

Date of Decision : 14-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226(3)
Rajasthan Land Revenue Act, 1956 — Section 82
Rajasthan Tenancy Act, 1955 — Section 42

Citation : (2014) 05 RAJ CK 0208

Hon'ble Judges : Amitava Roy, C.J.;Vijay Bishnoi, J

Bench : Division Bench

Advocate : Madan Lal Purohit, Advocate for the Appellant

Final Decision : Dismissed

Judgement

1. The remonstrance of the appellant (respondent no. 5 in the writ petition) is against the perceived summary rejection of his application under Article 226(3) of the Constitution of India seeking vacation of the interim restraint granted vide order dated 20.5.2013 passed in S.B. Civil Writ Petition No. 5660/2013.

2. We have heard Mr. Madan Lal Purohit, learned counsel for the appellant.

3. Abridged version of the pleaded facts as available would provide the factual background.

4. The respondent no. 3 herein has instituted the aforementioned writ proceeding mounting a challenge to the judgment and order dated 6.3.2013 passed by the learned Board of Revenue, Ajmer in Reference/LR/4242/2008/Udaipur and the order dated 25.2.2008 passed by the learned District Collector, Udaipur in case no. 89/2007. Elaborating the relevant facts, the respondent no. 3 (writ-petitioner) has averred that the land involved measuring about 6 bigha 9 biswa was originally recorded in the name of the respondents no. 4 and 5 herein, but was later on recorded in his name pursuant to the judgment and decree dated

15.2.1979 passed by the learned SDO, Vallabhnagar in Revenue Case No. 9/1979. While admitting that he (respondent no. 3) did belong to a non-scheduled caste, he has further stated that by the order dated 25.2.2008, the learned District Collector, Udaipur made a reference u/s 82 of the Rajasthan Land Revenue Act, 1956 (for short, hereinafter referred to as "the Act") to the learned Board of Revenue, Ajmer for cancellation of the judgment and decree dated 15.2.1979 on the ground that the transfer of the land in question in his favour was barred by Section 42 of the Rajasthan Tenancy Act, 1955. The respondent no. 3 mentioned inter-alia that meanwhile the respondent no. 4 had filed a suit in the Court of learned Civil Judge, Vallabhnagar also for annulment of the judgment and decree dated 15.2.1979. He also claimed to be in peaceful possession of the property. The learned Board of Revenue, Ajmer by the judgment and order dated 6.3.2013 however allowed the reference and cancelled the judgment and decree dated 15.2.1979 and further ordered that the entries vis-a-vis the respondent no. 3 in the revenue records be deleted. Situated thus, the respondent no. 3 instituted the above referred writ petition.

5. By the order dated 20.5.2013, the learned Single Judge admitted the writ petition and granted the following interim relief:-

In the meanwhile and until further orders, effect and operation of the impugned judgment dated 6.3.2013 passed by the Board of Revenue Rajasthan, Ajmer in Case No. Reference/LR/4242/2008/Udaipur shall remain stayed.

6. The appellant (respondent no. 5 in the writ petition) filed an application under Article 226(3) of the Constitution of India seeking vacation of this interim restraint on the sole ground that as the civil suit for cancellation of the judgment and decree dated 15.2.1979 was already pending, there was no necessity to keep in abeyance the decision dated 6.3.2013 of the learned Board of Revenue, Ajmer. By the order impugned in the instant appeal, the application has been rejected in the following terms:-

Heard learned counsel for the parties.

No case for vacating the interim order passed by this Court is made out. The application (IA No. 4548/13) preferred under Article 226(3) of the Constitution of India on behalf of the respondent No. 5 is, therefore, rejected.

The interim order dated 20.5.13 is confirmed till the disposal of the writ petition. The stay petitions stands disposed of accordingly.

7. Mr. Purohit has urged that it being an essential as well as fundamental requirement of an order proclaiming adjudication of an issue that it ought to be reinforced with reasons, the learned Single Judge had grossly erred in rejecting the application under Article 226(3) of the Constitution of India filed by the appellant in a summary manner, warranting remedial intervention of the appellate forum. To reinforce this plea, the learned counsel has placed reliance on the decision of the Hon'ble Apex Court in Arun Damka Vs. Additional

Inspector-general of Police and Another, .

8. Upon hearing the learned counsel for the appellant and on a consideration of the pleaded facts and the documents on record to the extent necessary at this stage, we are not inclined to sustain the challenge. True it is that a forum exercising judicial and quasi judicial functions ought to pass a reasoned order, as has been reiterated umpteen number of times, in the facts and circumstances of the case and more particularly having regard to the plea taken by the appellant for vacation of the interim order dated 20.5.2013, we are of the view that the impugned order does not warrant interference on this ground. As it is, the writ petition having been admitted entertaining the challenge to the judgment and order dated 6.3.2013 of the learned Board of Revenue, Ajmer, it (writ petition) would be rendered infructuous for all intents and purposes if the operative directions issued by the learned Board of Revenue, Ajmer are given effect to. In a way, pendency of the civil suit for cancellation of judgment and decree dated 15.2.1979 in a competent court of law, in our opinion, is also a fact having a vital bearing on the tenability of the judgment and order dated 6.3.2013. As the writ petition is pending, we do not wish to dilate further on this aspect of the debate. Suffice it to mention that in our comprehension, the learned Single Judge did not commit any error in rejecting the appellant's application under Article 226(3) of the Constitution of India.

9. The appeal lacks in merit and is dismissed. We however part with the observation that the writ petition would be adjudicated upon on its own merits without being influenced by any comment made hereinabove.