
(2002) 04 RAJ CK 0002

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1625 of 1999

Narottam Lal and Another

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 10-04-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 WLN 525

Hon'ble Judges : Jagat Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jagat Singh, J.—Heard the learned Counsel for the parties.

2. Oswal Samaj Panchayat of Rajnagar District Rajsamand by a registered sale deed dated 28.6.1990 sold 17 biswas agricultural land of Khasra No. 133 to Ambalal, Rajmal, Moolchand and Sohanlal. The above land was sold to the extent of 1/4th share to each of the purchasers mentioned above. At the time of sale vide map attached to Anx. 1 plots No. 1 to 4 were also demarcated. Plot No. 1 was sold to Ambalal, plot No. 2 to Rajmal, plot No. 3 to Moolchand and plot No. 4 to Sohanlal. It was also mentioned that in between the plots the lane was to be left by the plot holders according to their common consent. Anx. 1 is the registered sale deed of Rajmal whose son is the present petitioner No. 1. In the year 1990 Sohanlal plot holder No. 4 submitted the papers for conversion of his plot from agricultural to residential. Though he submitted the map that 10 ft. lane be left towards eastern and southern side of his plot. The above land was to be taken 5ft. from each plot. However, vide Anx. 3 the then Sub-divisional Officer. Rajsamand converted the plot of Sohanlal with the condition that Instead of 10 ft., 20ft. lane was to be left towards eastern and southern side of the plot of Sohanlal. Out of above 20 ft. 10 ft. was already left by both the plot holders. The remaining 10 ft. is to be adjusted from 5 ft. of both the adjoining plot holders. While delivering order Anx. 3 Rajmal was not given any notice of hearing

whose plot was situated towards eastern side of the plot of Sohanlal nor Moolchand was given any notice whose plot was situated towards southern side of the plot of Sohanlal. In the year 1997 present petitioner filed an application for conversion of his plot No. 2. He was permitted to leave only 10 ft. lane towards western and southern side of his plot. 5 ft. each was to be left by both the adjoining plot holders. This permission is Anx. 2.

3. When Sohanlal came to know about Anx. 2 he filed a review petition before the respondent No. 4 which was dismissed vide Anx. 4. Whether other two purchasers of the plot have got their plots converted from agricultural to residential is not mentioned by either of the parties.

4. Sohanlal had transferred his land in favour of Ashok Kumar who filed an appeal against the order Anx. 4 dated 15.5.1997 before the Revenue Appellate Authority, Udaipur which was dismissed on 1.4.1998 vide Anx. 7. Second appeal filed u/s 76 of the Rajasthan Land Revenue Act, 1956 by Ashok Kumar was allowed by Board of Revenue on 18.11.1998 vide Anx. 8 and the matter was remanded back to Sub-divisional Officer, Rajsamand with the direction that after keeping in view the relevant rules with regard to conversion of land and after taking the report of the Senior Town Planner or the Municipality, he must pass orders afresh. The review application filed by Narottamlal before the Board of Revenue was dismissed on 10.2.1999 vide Anx. 9. Hence this petition Under Article 226 of the Constitution of India.

5. The submissions of the learned Counsel for the petitioners are that the review application filed by Sohanlal was dismissed on 15.5.1997 against which no appeal lies u/s 77 (1)(b) of the Act of 1956. The second appeal before the Board of Revenue was also incompetent. At the most order dated 15.5.1997 could be challenged by filing a revision petition before the Board of Revenue. In the alternative it was submitted that even if the appeal was maintainable, the same was barred by limitation. It was again submitted that the town of Rajsamand is not included in Sub-clause (1) of proviso (1) to Rule 4(a) of the Conversion Rules and, therefore, opinion of the town planner or that of the Municipal Board was not necessary before passing the conversion orders. Sohanlal himself has not challenged the order dated 30.7.1990 by which land of his plot was converted with the direction to leave 20 ft. lane instead of 10 ft. Subsequently, lands of the present petitioners were converted with the condition, to leave 10 ft. lane. No review petition could have been filed by Sohanlal against that order nor any appeal could lie. Lastly, it was submitted that when all the four plot holders have reached to the consensus that only 10 ft. land in between the plots shall be left, the conversion authority has no power to order for 20 ft. lane. Even according to Rule 5 of the Rajasthan Land Revenue (Allotment, Conversion and Regularisation of Agricultural Land for Residential and Commercial Purposes in Urban Areas) Rules, 1981 (hereinafter referred to as "the Rules of 1981") 15 meters road is to be left for National highways and state highways, 10 meters for National highways and State highways passing through municipal areas, 7.5 meters for

other district roads and main colony roads and 3 meters for other roads. According to the learned Counsel for the petitioners the roads in between four plots so purchased, three meters road should have been left.

6. On the contrary, learned Counsel for the respondents has supported the impugned order.

7. I have carefully considered the rival submissions made at the Bar.

8. It is an admitted fact that the agricultural land was purchased by demarcating four plots and as per the conditions of the sale letter the conversion was to be got done by purchasers under the Rules. It is also an admitted fact that in between the four plots two roads from north to south and east to west were to be left. The size of the road or bye lanes was to be adjusted by four plot holders by themselves according to the sale deeds. When Sohanlal went for conversion, he applied after leaving 10 ft. lane in between the two plots on either side. However, the conversion officer in his wisdom thought fit to give permission by leaving 20 ft. road instead of 10 ft. This was done in the year 1990. When in the year 1997 Rajmal plot holder No. 2 also sought conversion of his plot he was given permission by leaving 10 ft. lane on both the sides of his plot. When Sohanlal came to know about this anomaly, he filed a review petition. Even admitting that no appeal lies against the decision of the review petition, a revision lies before the Board of Revenue and the Board of Revenue after hearing both the parties has remanded the matter back to the authorised officer to decide afresh according to the Conversion Rules and after getting technical report from the Senior Town Planner or the Municipal Committee. I do not see any illegality much less a material irregularity in the impugned order of Board of Revenue. The lane has to be left consistent throughout. If 20 ft. lane is left in front of plot of Sohanlal the same cannot be 10 ft. by the side of Rajmal. It has to be either 20 ft. throughout or 10 ft. throughout. Even assuming that the provisions of Rule 5 of the Rules of 1981 is not applicable because this land has not fallen in the town planning. The technical consent of the Municipal Committee has to be sought before permitting conversion.

9. The jurisdiction Under Article 226 of the Constitution of India is extra ordinary and has to be used sparingly and in appropriate cases. Similarly, though the power Under Article 226 is a large one, however, it has to be exercised in accordance with the well established principles. In the matter at hand the Board of Revenue has remanded the matter to the proper authorities for orders afresh looking to the provisions of the Conversion Rules and after getting technical report from the Senior Town Planner or the Municipality. The learned Counsel for the petitioners could not indicate any illegality much less any prejudice seems to have been caused to the petitioners. Admittedly, the conversion order made in favour of the petitioners in the year 1997 was not made after procuring technical report of the Town Planner or the Municipal Committee, as the case may be. The uniformity in the lane in between the plots has to be maintained.

10. Consequently, there is no merit in this petition. The same stands dismissed.