

(2007) 03 RAJ CK 0087

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2517 of 2003

Prem Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-03-2007

Acts Referred:

Citation : (2007) 3 WLN 564

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Judgement

Gopal Krishan Vyas, J.—By this petition, the petitioner seeks to challenge order Annex.-1 dt. 10.02.2003 passed by Superintending Engineer, Irrigation Circle, Sriganganagar whereby the learned appellate authority set aside order dt. 21.02.2002 passed by the Executive Engineer upon remand.

2. Briefly stated facts of the case are that the petitioners have agricultural land in chak 4Z in Sriganganagar district. It so happened that upon bifurcation of the chak, part of the petitioners' land remained in chak 4Z-I and part of the land was transferred in chak 4Z-II. The petitioners made an application for transfer of their land in chak 4Z-I to chak 4Z-II.

3. It is submitted by learned Counsel for the petitioners that the petitioners contended before the authorities that they are not getting proper irrigation facility because the level of the land is higher and they have another land in chak 4Z-II also. Upon their application report was submitted by the concerned Jr. Engineer and S.D.O. on 05.02.1991. The said application of the petitioners was rejected vide order dt. 27.06.1996 which is on record. Against order dt. 27.06.1996 the petitioners preferred appeal before the appellate authority. The appeal was allowed with the direction issued to respondent No. 2 that after obtaining permission from the Hon'ble Agriculture Minister the matter may be decided afresh after hearing both sides and after inspecting the site and taking a technical report thereon. This order Annex.-5 was passed by the appellate authority on 19.03.1998.

4. In pursuance of the said order Annex.-5, the Executive Engineer decided the matter afresh vide order dt. 21.02.2002 in favour of the petitioners and ordered that petitioners' land may be transferred from chak 4Z-I to chak 4Z-II. However, the private respondents appealed against the order dt. 21.02.2002 before the Superintending Engineer, Irrigation Circle, Sriganaganagar on the ground that the order passed by respondent No. 3 is illegal and has been passed without taking into account the entire record and without having regard to the earlier order dt. 19.03.1998. The appeal filed by respondents No. 4 to 6 was allowed by the Superintending Engineer vide impugned order dt. 10.02.2003 (Annex.-1).

5. I have perused the material on record, particularly earlier order dt. 19.03.1998 whereby the case was remitted by the appellate authority-Superintending Engineer to respondent No. 2 with the following directions:

6. Having regard to the entire material on record, in my opinion, the respondent No. 3 has rightly quashed the order passed by respondent No. 2, however, having done so, the appellate authority was required to remit the case to respondent No. 2 for decision afresh inasmuch as while passing order dt. 21.02.2002 the Executive Engineer did not comply with the directions passed by the appellate authority in the earlier order dt. 19.03.1998.

7. Therefore in the interest of justice, the case is remitted to the Executive Engineer (respondent No. 2) for decision of the matter afresh after following the direction issued by the Superintending Engineer vide order Annex.-5 dt. 19.03.1998 providing opportunity to both sides, in accordance with law. Respondent No. 2 is directed to complete the exercise and pass fresh order within a period of two months.

8. With aforesaid direction, the writ petition is disposed of.