

(1992) 07 RAJ CK 0047

In the Rajasthan High Court

Case No : Civil Writ Petition No. 589 of 1981

Prithvi Raj and Another

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 22-07-1992

Acts Referred:

Citation : (1992) 2 WLN 35

Hon'ble Judges : R.P. Saxena, J;A.K. Mathur, J

Bench : Division Bench

Judgement

1. By the Court. The petitioner by this writ petition has challenged the order of the Board of Revenue dt. 13th October, 1980 (Annex. 11), dt. 12th March, 1981 (Annex. 12) order of the Revenue Appellate Authority dt. 1st June, 1978 (Annex. 9) and the order of the Additional Collector, Sri Ganganagar dt. 1st September, 1977 (Annex. 7).

2. The petitioner was granted a temporary cultivation lease of a land measuring 23 bighas 10 biswas comprising Murabba No. 12 Chak No. 59 out of the land of Bhera Ram father of Shri Sardara Ram. Shri Bhera Ram proceeded to surrender the aforesaid temporary cultivation lease by a letter dated 15th December, 1975. When the petitioner had come to know of this fact, he proceeded to make an application for allotment of the aforesaid land by way of temporary cultivation lease to them. This application was allowed by the order dt. 15th December, 1975 and the aforesaid land came to be allotted to the petitioner by way of temporary cultivation lease for Smt. year 2032 vide Annex. 1. Some complaint was filed by the respondent Sardara Ram to the Collector, Sri Ganganagar and the Collector, Sri Ganganagar vide order dt. 12th May, 1976 sent this case for an enquiry to the Tehsildar, Revenue, Raisinghnagar. When the matter came up before the Tehsildar, petitioners produced before him evidence to show that the land stood allotted to respondent Shri Sardara Ram and Shri Bhera Ram in the Rajasthan Canal Project area on permanent basis. 23 bighas and 16 biswas of the command land comprising killas No. 1 to 25 of Murabba No. 226/360 of 4

PTD came to be allotted permanently to Shri Bhera Ram vide order dt. 7th December, 1976, therefore, Bhera Ram surrendered the aibresaid land and that land was allotted to the petitioners. On the basis of the evidence led before the Tehsildar, the Tehsildar came to the conclusion that the complaint filed by the respondent is without any merit and he upheld the allotment in favour of the petitioners and same was renewed upto smt. year 2033.

3. Aggrieved against this order, the respondent filed an appeal before the Additional Collector, Sri Ganganagar and the Additional Collector, after going through the record, came to the conclusion that the petitioner is not a landless person as he has a land of more than 25 bighas, therefore, he set aside the order of the Tehsildar by the order dt. 1st September, 1977 (Annex. 7). Aggrieved against this order the petitioners preferred an appeal to the Revenue Appellate Authority and the Revenue Appellate Authority by its order dt. 1st June, 1978, upheld the order of the Additional Collector and dismissed the appeal. Aggrieved against this order, a revision was tiled before the Board of Revenue and the Board of Revenue after reviewing the whole matter also dismissed the revision petition by its order dt. 13th October, 1980 (Annex. 11). Then a review petition was also filed and the same was also rejected vide order dt. 12th March, 1981 (Annex. 12). Aggrieved by these orders, petitioners filed the present writ petition before this Court.

4. The writ petition was admitted and an ad interim stay order was passed by this Court that the petitioners may be allowed to be continue in possession of these lands provided they give a solvent security @ Rs. 150/- per bigha per annum as mesne profit to State in event of failure of writ petition.

5. The respondent No. 6 has filed the reply and contested the matter.

6. We have heard Mr. Joshi, learned Counsel for the petitioners, Mr. Purohit, learned Counsel for the respondent No. 6 and learned Deputy Government Advocate.

7. After going through the record, it appears that the petitioners cannot be said to be a landless person but nonetheless the petitioners are in possession of this land as a temporary cultivation lease holder and that was renewed from time to time. In the present case this writ petition was filed way back in the year 1981 and the petitioners are in possession of the land since then under order of this Court as no renewal has been granted to the land holder i.e. the State or through its officers after smt. year 2033. However, the land has to be now allotted on the permanent basis, therefore, without going into the factual controversies that whether the petitioners are really landless person or not we deem it just and proper to direct that the land in question may now be allotted on permanent basis in accordance with the law. Both the parties can also apply and the authorities shall consider their eligibility vis-a-vis other prospective buyers in accordance with the law. The petitioners shall deposit Rs. 150/- per bigha per annum from 1981 upto this date as he was in possession of this land as mesne

profit to State. The petitioners shall surrender this land to the landholder i.e. the State and then the permanent allotment shall follow. However, in case if there is any standing crop on the land then the petitioners may be permitted to collect the same within a period of one month from today, stay order shall not remain operative after one month.

8. The writ petition is accordingly disposed of.