

(2005) 08 RAJ CK 0082
In the Rajasthan High Court
Case No : Civil Writ Petition No. 8744 of 2002

Ramcharan

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-08-2005

Acts Referred:

Citation : AIR 2006 Raj 101 : (2006) 2 RCR(Civil) 370 : (2006) 1 RLW 780 : (2006) 1 WLC 748

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Advocate : R.P. Vyas, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Gyan Sudha Misra, J.—The petitioner herein has challenged the order passed by the District Judge, Kota dated 6.11.1998 by which it has been held that the property in dispute has vested in the State of Rajasthan by virtue of the right of escheat since the legal and rightful owner did not leave behind any heir after his death on whom the property could vest. The order for vesting the property in question in the State by virtue of the right of escheat passed by the Collector has been upheld by the learned District Judge, Kota after discussing all the procedures under which the property in dispute has been held to have vested in the State. It has further been held that no one came forward to claim the property in question as the deceased owner has not left behind any heir to his property.

2. According to the version of the counsel for the petitioner, the petitioner had filed a petition before the Collector as also before the District Judge, Kota raising his objections against vesting of the property in the State, but the same has been disbelieved by the learned District Judge holding that no objections were pending before any Court. Even assuming that the objection of the petitioner were pending before the authorities disputing vesting of the property in the State by virtue of the right of escheat, it is obvious that the same could not have been

held decisive on the point as the petitioner is essentially claiming title to the property left by the deceased who has been held to have died without executing any will as also without leaving any legal heir behind him.

3. Under the circumstance, the petitioner will have to file a civil suit For determination, after adducing cogent evidence, as to whether he is the legal heir of the deceased so as to challenge the right of the State to claim it by way of right to escheat. The petitioner will have to discharge the burden of proving his right, title and interest to the disputed property by adducing adequate and cogent evidence and the order passed by the Collector as also the District Judge, Kota will be treated final only on the point as to whether the property could have vested In the State by virtue of the right of escheat by resorting to the right procedures by the Additional Collector who claimed the property to have vested in the State by virtue of the right of escheat. The order of the District Judge, Kota confirming the said order will also have to be treated as quasi judicial in nature and cannot have the effect of a decree on the right, title and interest to the property in dispute which is claimed by the petitioner by virtue of the fact that he is the legal heir of the deceased, This will have to be decided by a separate suit of title by anyone claiming the property to have devolved on him including the petitioner and if a decree is finally passed in favour of any party by a court of competent jurisdiction after appreciation of evidence to be adduced by the party claiming it, it is obvious that the order passed by the authorities will not be allowed to prevail over the decree passed by a competent court as the same would be decisive and conclusive in the matter.

4. The writ petition, subject to the aforesaid observation, stands dismissed.