
(2017) 01 RAJ CK 0132
In the Rajasthan High Court
Case No : 9487 of 2016

Ramesh Chandra

APPELLANT

Vs

Chandra Singh & ors.

RESPONDENT

Date of Decision : 24-01-2017

Acts Referred:

Rajasthan Tenancy Act, 1955, Section 15A -
Rajasthan Colonisation Act, 1954, Section 13A

Citation : (2017) 01 RAJ CK 0132

Hon'ble Judges : Sangeet Lodha

Bench : SINGLE BENCH

Advocate : Rajdeep Singh, Rakesh Arora

Judgement

1. This petition is directed against order dated 25.6.13 passed by the Board of Revenue Rajasthan, Ajmer, whereby a revision petition preferred by the petitioner against the order dated 5.10.06 of Divisional Commissioner, Bikaner, cancelling the mutation of the disputed land recorded in favour of inter alia the petitioner vide order dated 23.12.85 passed by Tehsildar, Colonisation, Chhatargarh No.1, District Bikaner, has been dismissed.

2. The relevant facts are that father of the first respondent, Shri Amar Singh, was khatedar tenant of the disputed land which was acquired in the year 1982 for Mahajan Field Firing Range of Indian Army; the award was passed and the land was entered in the name of Government of India in the record of rights. The petitioner got the disputed land mutated in his favour vide mutation entry no.183 dated 23.12.85 on the basis of a sale deed alleged to have been executed in his favour in the year 1966 by khatedar tenant Hem Singh & Amar Singh sons of Kishan Singh, which is said to be a forged document. The mutation effected was questioned by the first respondent by way of appeal before the Sub Divisional Officer(SDO), Khajuwala. The appeal was dismissed by the appellate authority vide order dated 25.9.97. Aggrieved thereby, the second appeal preferred by the first respondent was allowed by the Additional Divisional Commissioner, Bikaner

Division, Bikaner, vide order dated 5.10.06 and the mutation effected as aforesaid was set aside. Aggrieved thereby, the revision petition preferred by the petitioner herein stands dismissed by the Board of Revenue by the order impugned. Hence, this petition.

3. Learned counsel appearing for the petitioner contended that the disputed land was purchased by the petitioner from Amar Singh, the father of the first respondent by way of registered sale deed dated 25.4.66, the genuineness whereof cannot be disputed and thus, the mutation entry made by the Tehsildar on the basis of the sale deed in favour of the petitioner cannot be faulted with. Learned counsel submitted that as a matter of fact, the first respondent so as to grab the amount of compensation, questioned the legality of the mutation effected alleging the sale deed executed to be forged. Learned counsel submitted that the Additional Divisional Commissioner as also the Board of Revenue have not examined the validity of the transfer made keeping in view the provisions of Section 13A of Rajasthan Colonisation Act, 1954 (for short "the Act of 1954") and Section 15A of the Rajasthan Tenancy Act, 1955 (for short "the Act of 1955").

4. I have considered the submissions of the learned counsel for the petitioner and perused the material on record.

5. Indisputably, vide notification dated 21.1.59 the village wherein the disputed land is situated was notified as colony area and thus, the provisions of Act of 1954 become applicable in respect of the said land. By virtue of provisions of Section 15A of the Act of 1955, the land in the Rajasthan Canal Area leased out on any terms whatsoever is deemed to have been let out temporarily within the meaning of the proviso to Section 15 and no khatedari right shall accrue or shall be deemed ever to have accrued in any such land and thus, the petitioner could not have claimed accrual of the khatedari rights over the land in question on the basis of the sale deed alleged to have been executed on 25.4.66. Moreover, it is not disputed before this court that the disputed land had already been acquired for Mahajan Field Firing Range of Indian Army and after passing of the award, the same was recorded in the name of Government of India in the record of rights. In this view of the matter, the mutation effected by Tehsildar in favour of the petitioner of the disputed land which cannot be said to be in his possession, was ex facie without jurisdiction. It is settled law that the mutation entries are only fiscal proceedings, which does not declare the rights over the land in question and thus, the order passed by the Additional Divisional Commissioner setting aside the order passed by the SDO upholding the mutation effected in favour of the petitioner by Tehsildar, Chhatargarh, does not suffer from any infirmity or illegality and thus, the Board of Revenue has rightly declined to interfere with the same in exercise of its revisional jurisdiction.

6. No case for interference by this court in exercise of its extra ordinary jurisdiction is made out.

7. The writ petition fails, it is hereby dismissed in limine.