
(1983) 01 RAJ CK 0012
In the Rajasthan High Court
Case No : Civil Petition No. 2934/74

Ratan Singh

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-01-1983

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1983) WLN 1

Hon'ble Judges : S.C. Agrawal, J

Bench : Single Bench

Judgement

S.C. Agrawal, J.—Ratan singh, the petitioner in this writ petition filed Under Article 226 of the Constitution was a Granthi of a Gurdwara in District Ganganagar and in that capacity, he held five Kilas of land in chak 78 L. N., Tehsil Padampur, District Ganganagar, in lieu of the services rendered by him to the general public. By order dated 5th June, 1965 the State Government proceeded to abolish the system of village servants and directed that Kotwals, Tarkhans, Nais, Pujaris, Granthis and Molvis of Ganganagar district who held village service grants, if they wished to secure khatedari rights in respect of the land held by them in lieu of village services, will have to pay to the Government the reserve price of the land. In pursuance of the aforesaid order of the State Government, the Collector, Ganganagar issued a notification dated 10th May, 1966 whereby it was declared that the services of the village servants i. e. Kotwals, Tarkhans, Nais, Pujaris, Granthis and Molvis Of Ganganagar canal area and Bhakhia project were no longer required and these village servants were directed to apply to their concerning Sub-Divisional Officers (Rev) within 30 days of the issue of the said notification for obtaining khatedari right in accordance with instructions of the Government contained in the communications of the State Government dated 5th June, 1965 and 11th June, 1966. In accordance with the aforesaid notification issued by the Collector, Ganganagar the petitioner submitted an application for allotment of the land which was held by him and by the order dated 30th March, 1967, the Collector, Ganganagar allotted Muraba No. 9/5 in

Chak 78 LNP, Tehsil Padampur, District Ganganagar measuring 5 Bighas to the petitioner @ Rs. 300/- per Bigha. The petitioner was required to pay the said price in annual instalments of Rs. 150/-. The petitioner deposited the first instalment of Rs. 150/- on 6th April, 1967 and the second instalment of Rs. 150/- on 18th July, 1968. The balance amount of Rs. 1200/- was paid by the petitioner on 22nd November, 1972. In the meanwhile, in the year 1968, the State Government proceeded to change its policy and issued instructions that khatedari rights shall be conferred on the village servants whose services are no longer required in the lands held by them in lieu of the village service provided they pay the market price of the land, In accordance with the aforesaid instructions issued by the State Government the Collector, Ganganagar issued a letter dated 5th February, 1969 to the Sub-Divisional Officer, Karanpur whereby it was directed that market price should be recovered from the granthis to whom land had been allotted in the Ganganagar district and that khatedari rights should be given to only those granthis who deposit the market price. After having deposited the full amount of Rs 1500/- as directed in the order of allotment dated 30th March, 1967, the petitioner submitted an application before the Tehsildar (Rev), Padampur on 22nd June, 1974 wherein the stated that he had deposited the entire amount and that the said deposit may be verified. On aforesaid application, the Tehsildar (Rev), Padampur made a report that in view of the direction given by the Sub-Divisional Officer, Karanpur, in his letter dated 7th July, 1972 a receipt of part payment only should be issued to the Granthis who had been allotted land in instalments in their capacity as Granthis and receipt of part payment of Rs. 1500/- was, therefore, issued to the petitioner. Being aggrieved by the aforesaid order treating the deposit of Rs. 1500/- as part payment of the amount to be deposited by him for the land that had been allotted to him, the petitioner has filed this writ petition wherein he has prayed that an appropriate writ, order or direction be issued declaring the Government decision contained in letter dated 5th February, 1969 of the Collector, Ganganagar directing the petitioner and his like to pay market price of the land allotted to them as ultravires and ineffective qua the petitioner. In the writ petition, the petitioner has prayed that by an appropriate writ, order or direction, the respondents may be directed to refund to the petitioner the sum of Rs, 150/- deposited by him with the Tehsildar, Padampur and further the petitioner may be declared to have become a khatedar tenant of the land in question by operation of law and that he is not required to pay anything for the purported grant of khatedari rights.

2. No reply has been filed on behalf of the respondents to writ petition.

3. Shri Mridul, the learned counsel for the petitioner has submitted that the present case is concluded by the decisions of this Court in Lal Singh v. State of Rajasthan, S.B. Civil Writ Petition No. 1053/69 decided on 24th November, 1971 and Suryamal v. State of Rajasthan and Ors, S.B. Civil Writ Petition No. 1603/71 etc. decided on 7th September, 1973. Shri Mridul has also pointed out that D.B. Civil Special Appeal No. 61/72 filed against the judgment of the learned single

Judge dated 23th November, 1971 in Lal Singh v. State of Rajasthan and Ors. (supra), was dismissed by the Division Bench of this Court by order dated 3rd July, 1972.

4. In Lal Singh v. State of Rajasthan (supra) the validity of the direction of the State Government as contained in the letter dated 5th February, 1969 of the Collector, Ganganagar whereby the village servants whose services were no longer required were required to pay the market price of the land that was allotted to them, was challenged before this Court & a learned single Judge of this Court (V.P. Tyagi J.) held that the order whereby services of all the village servants were terminated, had been passed by the Collector, Ganganagar under the provisions of Section 193 of the Rajasthan Tenancy Act, 1955 and that Section 193 of the Rajasthan Tenancy Act conferred a right on a village servant that if his services are terminated by the Collector, then he would be entitled to hold the land which was granted to him as a village servant as a Khatedar tenant and was not required to pay any amount as the price of the land for acquiring Khatedari rights in the land held by him as village servant and this Court quashed the order dated 5th February, 1969 passed by the Collector, Ganganagar directing the Sub-Divisional Officer and Tehsildar Karanpur to charge the market price of the land from the petitioner in that case. Similarly, in Surya Mal and Ors. v. State of Rajasthan and Ors. (supra) another learned single Judge of this Court (J.P. Jain J.) following the decision in Lal Singh v. State of Rajasthan and Ors. (supra) has held that u/s 193 of the Tenancy Act, if a village servant is not required to render any service to the village community, he becomes a khatedar tenant of the land held by him as a village servant and he would be liable to pay the rent but no question of his being liable to pay any reserve price or any market price of the land which he held as a village servant shall arise and he can only be made liable to pay rent according to law. In the said case, the petitioners had also prayed for refund of the amount that was paid by them but this Court did not grant the said relief on the view that the petitioners who had paid one or two instalments, had paid the same of their own accord and they did not choose to challenge order of the Government by which they were asked to secure the khatedari rights on payment of the reserve price at that stage.

5. The aforesaid decisions of this Court in Lal Singh v. State of Rajasthan (supra) and Surya Mal etc. v State of Rajasthan (supra) fully cover the present case. The learned Additional Government Advocate also does not dispute this position. In the circumstances, it must be held that that the directions contained in the order dated 5th February, 1969 passed by the Collector, Ganganagar directing the Sub Divisional Officer, Karanpur and Tehsildar, Padampur to charge the market price of the land from the petitioner must be quashed in so far as the petitioner is concerned and it must be declared that the petitioner is not required to pay the market price of the land, which has been allotted to him by virtue of his being the Granthi under the order dated 30th March, 1957 passed by the Collector, Ganganagar. As regards refund of the amount of Rs. 1500/-which has been deposited by the petitioner in pursuance of the order of allotment. I am of the

opinion that the aforesaid relief cannot be granted to the petitioner for the reason that the petitioner paid the said amount of his own accord and he did not choose to challenge the order of the Government by which he was asked to secure the khatedari rights on payment of the reserve price at that stage.

6. In the result, the writ petition is partly allowed and it is declared that the petitioner is not liable to pay the market price of the land, which has been allotted to him by virtue of his being a Granthi under the order of the Collector, Ganganagar dated 30th March, 1967 for the purpose of securing khatedari rights over the same and that according to Section 193 of the Rajasthan Tenancy Act, the petitioner is the khatedar for the aforesaid land and he would be liable to pay the rent of the said land according to law. In the facts and circumstances of the case, the parties are left to bear their own costs of this writ petition.