
(2009) 04 RAJ CK 0087
In the Rajasthan High Court

Ratna Ram and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-04-2009

Acts Referred:

Rajasthan Colonisation (Allotment and Sale of Government Land in Indira Gandhi Canal Colony Area) Rules, 1975 — Rule 13(a)

Citation : (2009) 04 RAJ CK 0087

Hon'ble Judges : Raghvendra S. Chauhan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.S. Chauhan, J.—Aggrieved by the retrospective application of Rule 13(a) of the Rajasthan Colonization (Allotment and sale of Government Land in the Indira Gandhi Canal Colony Area) Rules, 1975 (‘the Rules’, for short), and aggrieved by the demand notice purporting to be issued under conditions No. 14 and 15 of the Rajasthan Colonization (General Colony) Conditions, 1955 (‘the Conditions’, for short), the petitioners have challenged the same before this Court.

2. The brief facts of the case are that the petitioners were allotted uncommand land on different dates in the Indira Gandhi Colony area. The petitioner No. 1 was allotted 15 bighas uncommand land on 4-1- 1991; the petitioner No. 2 was allotted 49 bighas 4 biswas uncommand land on 8-1-1991; the petitioner No. 3 was allotted 25 bighas uncommand land on 21-9-1990; the petitioner No. 4 was allotted 24 bighas 5 biswas uncommand land on 21-9-1990. According to all the four petitioners, immediately after the allotment of the land, they had paid full and final payment for the said land to the Government. In fact, their names have been entered in the revenue records as "Khatedars" of their respective land. Ever since the land was allotted to them, they have been enjoying peaceful possession of the said land. However, in 1995, suddenly they received notices from the Tehsildar, purporting to be issued under Condition Nos. 14 and 15 of the Conditions directing them to pay dues amount as additional price for the land

allotted to them under the Rules. Upon enquiry they discovered that the amount is being charged because Rule 13(a) of the Rules, which was amended in the year 1992, is, in fact, being applied retrospectively. Since, the petitioners are aggrieved by retrospective application of Rule 13(a) of the Rules, and by the demand notices issued to them, they have approached this Court under the writ jurisdiction.

3. This case raises two legal issues: firstly, whether Rule 13(a) of the Rules can be given retrospective effect or Not? Secondly, whether the additional price for the land, under the guise of the Rule 13(a), can be charged from the petitioners or not?

4. Both these issues are no longer res-integra as the same have been decided by a Division Bench of this Court in the case of Bhanwar Lal v. State of Rajasthan D.B. Civil Writ Petition No. 4954/1997, decided on 3-5-2007. The learned Division Bench was seized with similar factual matrix where the persons, who were earlier allotted land in Indira Gandhi Canal Colony Area, were suddenly issued demand notices under Condition Nos. 14 and 15 of the Conditions. The said notices were purported to have been issued because of retrospective application of Rule 13(a) of the Rules. The learned Division Bench dealt with twin legal issues, as mentioned above, and held as under:

In view of the precedents on the subject, we are clearly of the view that Clause (vii) can be given effect to only from the date of amendment i.e. 4-2-1992, and the allotments already made which had become final in the eye of law prior to that date cannot be reopened and the allottees cannot be asked to pay the additional price or difference of price treating the land in question as command land for the purpose of payment of price later. In the above premises, the impugned notices calling upon the petitioners to pay the additional price cannot be said to be in accordance with law, and they are fit to be quashed.

5. The said judgment has subsequently been followed in the case of Smt. Hira Devi v. State of Rajasthan S.B. Civil Writ Petition No. 2735/1999, decided on 30-11-2007.

6. Therefore, following the reasons given in the case of Bhanwar Lal v. State of Rajasthan (supra), this Court has no hesitation in quashing and setting aside the impugned notices issued by the respondents.

7. Therefore, the writ petition is allowed and the impugned notices are, hereby, quashed and set aside. There shall be no order as to costs.