
(2016) 05 RAJ CK 0053

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 308 of 2016

Regional Forest Officer, Shri Doongar Garh, Bikaner

APPELLANT

Vs

Shawan Ram

RESPONDENT

Date of Decision : 06-05-2016

Acts Referred:

Rajasthan Land Revenue Act, 1956 — Section 91

Citation : (2016) 2 DNJ 994

Hon'ble Judges : Govind Mathur and G.R. Moolchandani, JJ.

Bench : Division Bench

Advocate : S.S. Ladrecha, Additional Advocate General, for the Appellant;

Final Decision : Dismissed

Judgement

1. This appeal is barred by limitation from 238 days. An application is preferred as per the provisions of Section 5 of the Limitation Act to have condonation of the same.

2. While examining the application, we have also considered merits of the case.

3. The factual matrix necessary to be noticed is that a Patta for a chunk of land measuring 19200 Sq. Yard was issued by the Tehsildar, Shri Doongargarh on 06.09.1966. In respect thereof, requisite charges were deposited. A notice as per the provisions of Section 91 of the Land Revenue Act was served upon the lessee on 01.11.1985, but that was set aside by the Additional District Collector, Churu by an order dated 30.06.1986. Accordingly, the land aforesaid was entered in the name of lessee in the Revenue records. Relying upon a notification dated 03.03.1978, proceedings were initiated to dispossess the respondents from the land in question by treating them trespassers. The order dated 08.08.2008 treating the respondents trespassers and imposing penalty upon them was questioned by way of filing an appeal before the Additional Collector, Bikaner. The appeal came to be allowed by the Additional Collector vide order dated 09.04.2010. Aggrieved by the order aforesaid, the Regional Forest Officer

preferred an appeal under Section 76 of the Land Revenue Act before the Revenue Appellate Authority, that came to be dismissed on 14.03.2011. The order aforesaid was also affirmed by the Board of Revenue on being dismissal of the revision petition preferred giving challenge to the order dated 14.03.2011. The appellant-petitioners herein then preferred a petition for writ, that came to be dismissed by learned Single Bench under the order impugned.

4. Learned Single Bench after examining merits of the case arrived at the conclusion that the findings given are pure findings of fact and those concurrent findings of fact are not required to be interfered while exercising powers under Article 227 of the Constitution of India.

5. During the course of arguments before learned Single Bench, it was stated that the respondents are in possession of the land that is other than and in excess to the land covered by the Patta granted and for that, learned Single Bench kept the State authorities at liberty to take appropriate proceedings and pass appropriate orders in accordance with law.

6. In appeal, the only argument advanced by learned counsel for the appellants is that all the courts below failed to appreciate that the land in question was a land notified as forest, therefore, the same was not open for allotment.

7. We do not find any merit in the argument advanced. The issue has been adjudicated by the Revenue authorities twice. At the first instance, in the year 1986, proceedings under Section 91 of the Land Revenue Act were initiated and those culminated into rejection of the notice aforesaid and order for entering the land in the name of the original lessee in the Revenue records was issued. Subsequent thereto, at the instance of the Department of Forest, proceedings were again initiated by treating the lessee or the subsequent bona fide purchasers of the land as trespassers. Those proceedings too culminated into rejection of the decision taken by the Department of Forest and that order is based on pure appreciation of facts. The finding arrived was further affirmed by the appellate court as well as the revisional court. Learned Single Bench taking into consideration all these facts refused to invoke the powers under Article 227 of the Constitution of India.

8. We are of the considered opinion that no wrong, as such, has been committed by learned Single Bench. The application under Section 5 of the Limitation Act too is having no reason to condone the delay in filing the appeal. The same, therefore, is dismissed. In result, the appeal too is dismissed.