
(1993) 01 RAJ CK 0009

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2624 of 1989

Roopa Ram and Another

APPELLANT

Vs

Collector and Others

RESPONDENT

Date of Decision : 12-01-1993

Acts Referred:

Rajasthan Panchayat Act, 1953 — Section 27(a)

Citation : (1993) WLN 99

Hon'ble Judges : R.P. Saxena, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajendra Saxena, J.—Heard.

2. The petitioners have challenged the legality and validity of the order dated 25.4.85 (Annex. 5) passed by the Collector Bikaner (respondents No. 1) whereby he has quashed the sale of plot of land No. E/25 situated in Kanta Khaturia Colony, Shivbari made by the Gram Panchayat, Shivbari, respondent No. 2 in favour of Manish Chawala, respondent No. 3.

3. Succinctly stated the relevant facts are that respondent No. 2 auctioned certain residential plots situated in the Abadi area of Gram Panchayat, Shivbari in May, 1971 and the disputed plot was purchased by the respondents No. 3. The said Gram Panchayat executed the sale-deed dated 17.5.71 (Annex. 1) in favour of respondent No. 3. The respondent No. 3 transferred his right pertaining to the western side of the disputed plot in favour of petitioner No. 2 through a registered sale-deed dated 20.7.81 (Annex. 3). He also sold the eastern side of the disputed plot to one Nirmala Devi through a registered sale-deed dated 20.7.81. Thereafter, Smt. Nirmala Devi Also transferred her rights in respect of the disputed plot in favour of petitioner No. 1 through a registered sale-deed dated 17.2.86 (Annex. 4). It is alleged that the petitioners have been in continuous possession of the disputed plot. The respondent No. 1 issued a notice

to Shri Manish Chawla u/s 27(a) of the Rajasthan Panchayat Act, 1953 (in short, "the Act") read with Rule 272 of the Rajasthan Panchayat and Nyaya Panchayat General Rules, 1961. However, respondent No. 3 did not care to appear before the respondent No. 1. Thereupon, respondent No. 1 by his impugned order dated 25.4.1989 (Annex. 5) cancelled the sale-deed (Anex. 1) executed by the Gram Panchayat. Hence, this writ petition.

4. Despite ample opportunities, no reply has been filed on behalf of respondents Nos. 1 and 2 controverting the allegations detailed in the writ petition. Non-petitioner No. 3 has preferred to remain absent despite sufficient service.

5. It has been vigorously contended on behalf of the petitioner that the Collector without assigning any reason and specifying any illegality or violation of any Rules, has arbitrarily cancelled the impugned sale-deed (Ex. 1) after a lapse of about 18 years. It has also been contended that similar orders passed by respondents No. 1 have already been set aside in number of writ petitions by this court including the S.B. Civil Writ Petition No. 2344 of 1989-Smt. Savairi Devi v. Collector and Ors. decided on 7.8.92. The learned Dy. Government Advocate has simply reiterated the reasonings given by the Collector in the impugned order.

6. Shri Joshi has not opposed this writ petition and has contended that the Gram Panchayat has validly and legally executed the impugned sale-deed (Annex. 1).

7. A careful perusal of the impugned order (Anex. 5) reveals that the learned Collector has not cared to give any specific reason or to point out any specific illegality or the violation of any provisions of the Act or the provisions of the Rajasthan Panchayat and Nyaya Panchayat General Rules, 1961. It also stands well established that no notice was given to the petitioner in whose favour the respondents No. 3 had already sold the disputed plot of land through registered sale-deeds Exhibits 3 and 4. The impugned order is cryptic, vague and omnibus. It simply states that the allotment and sale of land have been made in contravention of the Rules, which clearly reflects that the respondents No. 1 did neither apply his mind nor pointed out any specific illegality or violation of breach of any rule committed by the Gram Panchayat while making the impugned allotment and issuing the sale-deed (Ex. 1). Therefore, the impugned order is patently a non-speaking order, such vague and omnibus grounds are not at all sufficient to vitiate the sale-deed dated 17.5.71 (Annex. 1) executed by the Gram Panchayat.

8. Hence, for the reasons mentioned above, I allow this writ petition and set aside the impugned order dated 25.4.89 (Annex. 5) passed by the Collector. No order as to costs.