

(2016) 11 RAJ CK 0015
In the Rajasthan High Court
Case No : Civil Writ Petition No. 181 of 1994

Sahi Ram

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 22-11-2016

Acts Referred:

Rajasthan Colonisation (Gang Canal Lands and Permanent Allotment and Sale) Rules, 1956 — Rule 2(5), Rule 4(1)(d)

Citation : (2017) 1 WLN 33

Hon'ble Judges : Mr. Govind Mathur and Dr. Pushpendra Singh Bhati, JJ.

Bench : Division Bench

Advocate : Mr. G.R. Punia, Senior Advocate assisted by Mr. Rajendra Prasad, Advocate, for the Petitioners; Mr. A.R. Godara, Advocate, for the Respondents

Final Decision : Disposed Off

Judgement

1. This petition for writ is before us to examine constitutional validity of sub-rule (5) of Rule 2 of the Rajasthan Colonisation (Gang Canal Land Permanent Allotment and Sale) Rules, 1956. A challenge is also given to proviso (d) to sub-rule (1) of Rule 4 of the Rules aforesaid.

2. On perusal of the facts, we do not find any need to examine validity of the provisions aforesaid in the instant matter. From perusal of the document Annex.1, i.e. a report dated 11.07.1974 arising out of ceiling proceedings initiated against Hardwarinath Trust, it appears that the land in question was not in possession of the petitioners in the capacity of subtenant. The land being under the possession of the petitioners, it was agreed between the parties including the State of Rajasthan that the petitioners shall retain his rights on the land in question, subject to payment of Rs.25,000/- per murabba to the Trust. If the petitioners were not sub-tenant of the Trust aforesaid, then the provisions, validity of which is under challenge in the instant matter, are having no application.

3. It is relevant to notice that the petitioners (at that time their father) earlier

too approached this court by way of filing a petition for writ, which came to be decided under a judgment <i>ß</i>dated 27.03.1995 along with a batch of writ petitions led by S.B. Civil Writ Petition No. 830/1994 (Lal Chand & Ors. v. State of Rajasthan & Ors.)</i>. In the writ petition aforesaid, it was the position accepted that the land was allotted to the petitioners including the father of the present petitioners as per Rule 13 of the Rules of 1956. This fact also substantiate the fact that the father of the petitioners prior to execution of the document Annex.1 was neither the sub-tenant nor tenant on the land in question. The petitioners, as such, are entitled to retain the land in the capacity of permanent cultivator to the extent the issue was settled by this court in the earlier litigation decided under the order dated 27.03.1995 in the case of Lal Chand (supra).

4. The writ petition stands disposed of, accordingly.