

(2016) 02 RAJ CK 0083

In the Rajasthan High Court

Case No : Civil Writ Petition No. 625 of 2016.

Shokat Ali and another.

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 03-02-2016

Acts Referred:

Rajasthan Tenancy Act, 1955 — Section 212

Citation : (2016) 2 DNJ 546 : (2016) RRD 470

Hon'ble Judges : Arun Bhansali, J.

Bench : Single Bench

Advocate : G.R. Punia, Sr. Advocate assisted by Rajesh Punia, Advocate, for the Appellant; Pratishtha Dave, Dy.G.C, for the Respondent

Final Decision : Disposed off

Judgement

Arun Bhansali, J. - This writ petition has been filed by the petitioners aggrieved against order dated 30.11.2015, whereby the revision filed by the petitioner against order dated 24.07.2008 passed by the Revenue Appellate Authority (the "RAA") has been dismissed, as not maintainable.

2. The petitioners filed a suit in the year 1999 seeking declaration and injunction against the State based on possession. An application under Section 212 of the Rajasthan Tenancy Act, 1955 was filed in 2008 by the petitioners alleging that by order dated 27.10.2005 certain land was set apart for the Municipal Board, Sardarshahar including the land in question and petitioners were sought to be dispossessed. The application filed by the petitioners was decided by the SDO, Sardarsahar on 22.07.2008 and the application was rejected.

3. Feeling aggrieved, the petitioners filed appeal before the RAA and the RAA by its order dated 24.07.08, dismissed the application seeking stay filed along with the appeal. Against the order dated 24.07.2008 the petitioners filed revision before the Board of Revenue. The Board of Revenue initially entertained the revision and admitted the same on 30.07.2008 and directed maintenance of

status quo, however, when the revision came up for hearing, the same was rejected by order dated 30.11.2015, however, while rejecting the revision petition, it was directed that the appeal filed by the petitioner and pending before the RAA may be decided within a period of two months.

4. It is submitted by learned counsel for the petitioners that though the petitioners have no objection regarding decision of the appeal filed by the petitioners pending before the RAA, however, no interim protection has been granted till such time that the appeal is decided despite the fact that during the pendency of the revision petition, the petitioners were enjoying such protection.

5. Learned counsel for the respondents submits that in fact the interim protection granted by the Board of Revenue had come to an end in the year 2011 itself as the order was not extended.

6. It is submitted that on account of the pendency of the proceedings, the respondent-Board is being deprived of putting the land to use and certain important projects are held up because of the same and, therefore, the petitioners are not entitled to any protection as they have already been evicted from the land in question in the year 2007 itself.

7. I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

8. It is apparent from the sequence of events noticed here-in-before that a suit filed in the year 1999 is pending consideration before the SDO and during pendency of the said suit, the land in question was set apart for the Municipal Board and the petitioners were evicted from the site in the year 2007.

9. The SDO after hearing the parties by a detailed order, rejected the application filed by the petitioners under Section 212 of the Act against which appeal filed by the petitioners is pending consideration before the RAA since 2008 and against refusal of grant of ad-interim relief, the petitioners approached the Board of Revenue. The suit as well as appeal against rejection of application seeking temporary relief are pending before the SDO and the RAA respectively for a long time and the said matters need to be decided expeditiously so that the petitioners as well as the respondents-Municipal Board would know their status qua the land in question.

10. Admittedly, since the year 2007, when the petitioners allegedly lost their possession and in the year 2008 order to maintain status quo was granted by the Board of Revenue and though it is claimed that the same comes to an end on account of non-extension of period in the year 2011, presently the status of the land continues to be same as it existed in the year 2008. Once the Board of Revenue had directed the RAA to decide the appeal within a period of two months, in the fitness of things, the Board should have directed maintenance of status quo till such time that the appeal was decided by the RAA. However, no such direction was granted, resulting in on the one hand, appeal against

rejection of temporary injunction remained pending and there is likelihood of change in the status quo of the land during the pendency of said appeal, which situation could be avoided by passing of order as noticed here-in-before.

11. Though in the order passed by the Board of Revenue it had directed the RAA to decide the appeal within a period of two months by its order dated 30.11.2015, however, it is submitted that despite passage of two months, the appeal has not been decided so far and the next date fixed before the RAA is 17.03.2016, which clearly indicates that the direction of the Board is not taken seriously by the RAA.

12. In the circumstances of the case, the RAA is directed to decide the appeal filed by the petitioners on the next date fixed before it i.e. 17.03.2016 and in any case within a period of three weeks from the said date and till the decision of the appeal, the parties shall maintain status quo at the site. Passing of any order by this Court shall not be taken as expression of any opinion on the merits of the case as the order has been passed only to obviate any complication at the site. In case of any default by the petitioners and if the appeal is not decided by the RAA, the interim order shall come to an end automatically on 07.04.2016.

13. In view of the fact that the suit is pending before the SDO for over 16 years now, the SDO is also directed to expedite the suit.

14. The writ petition stands disposed of with the above observations and directions.