
(2000) 07 RAJ CK 0066
In the Rajasthan High Court
Case No : C.W. No. 2346 of 2000

Smt. Sappu Begum and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 18-07-2000

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2001) 1 RLW 410 : (2000) 4 WLC 627 : (2000) 3 WLN 604

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : M.D. Purohit and T.R. Singh, for the Appellant;

Judgement

Shethna, J.

(1). The petitioners (i) Smt. Sappu Begum widow of late Shri Hanif Khan, GO Nazzuddin son of late Shri Hanif Khan and (iii) Gulam Mustafa @ Mustafa son of Late Shri Hanif Khan have filed this petition before this Court on 14.7.2000 and prayed for the following reliefs:-

"(i) the judgment of the Board of Revenue dated 5.5.1995 (Annex.6) to the extent it held that petitioners are not entitled to be declared as Khatedars of the land, be quashed and set aside;

(ii) the judgment/order passed by the Board of Revenue and the Revenue Appellate Authority to the extent that it should be seen that petitioner's possession should be regularised, should be interpreted by this Hon'ble Court to mean that petitioners should be bestowed upon the khatedari rights and respondents be directed to do so;

(iii) the order dated 11.3.1996 (Annex.8) and consequential order dated 15.3.1996 (Annex.9) may kindly be quashed and set aside;

(iv) the tender notice No. 213 dated 2.6.2000 may also be quashed and set aside to the extent it includes the lands of the petitioners and respondent No.7 may

kindly be restrained from carving-out any road from out of the land of the petitioners measuring 27 bighas in khasra No.381 of village Nagaur;

(v) the respondents no.4 and 6 may kindly be directed to comply with a part of the judgment of Board of Revenue in favour of the petitioners and also to comply with the orders of the State Government dated 10.6.1998 (Annex. 18) in their true letters and spirits and to act upon them accordingly;

(vi) any other appropriate relief (s) which this Hon''ble High Court deems fit and proper in the facts and circumstances of the case may be passed in favour of the petitioners."

(2). The petitioners themselves have stated in para no. 25 of the petition that prior to this they have filed S.B. Civil Writ Petition No. 2269/96 and the same was withdrawn with liberty to file fresh petition. Therefore, when this matter was called out in the morning, it was thought it fit to call for the papers of earlier writ petition No. 2269/96. On close scrutiny of that file it appears that almost similar prayers were made in the petition and on issuance of notice, detailed reply affidavit was filed by the respondents, wherein, preliminary objections were raised; (i) writ petition was filed by the present petitioners through their power of attorney Shri Shakti Singh and the power of attorney was executed in favour of Shakti Singh on 29.12.1992 for the land in question which was purchased by them by registered sale deed dated 4.2.94, (ii) the petitioners concealed the material fact from the Court by not disclosing the sale deed dated 4.2.1991 as it was disclosed by the private respondents in their affidavit in November, 1996 for impleading them as party respondents in that petition.

(3). However, it was submitted by the learned counsel Shri Purohit that earlier writ petition was withdrawn in view of the first preliminary objection raised by the respondents namely that the said petition was filed through power of attorney which was executed only in 1992, whereas, the sale deed was executed for the said land only in 1994. He submitted that this Court granted permission to withdraw that petition with liberty to file fresh petition, therefore, that should not come in the way of the petitioner in filing the present writ petition. It is debatable issue, hence I would not like to go in to technicalities of such arguments, particularly when I am convinced that after withdrawing the earlier petition No. 2269/96 way back on 7.1.1999, the petitioners waited for nearly 18 months in filing this petition. Such a gross delay of 18 months has not been explained in this petition. It appears that only after the impugned notice dated 2.6.2000 was issued by the respondents, the petitioners have thought it fit to file this petition. Thus, only on the ground of gross delay and laches this petition was required to be dismissed.

(4). Secondly, I am of the humble opinion that joint prayers made by the petitioners, which have been reproduced earlier by me cannot be granted in one petition.

(5). On merits also the petitioners have no case. It appears to me that by hook

or crook the petitioners want to retain possession. This Court cannot be party in prolonging the construction of road particularly when the notice (Annex.1) is already issued on 2.6.2000.

(6). For all the reasons stated hereinabove, I do not find any substance or merit in this petition and accordingly, it fails and is hereby dismissed. Stay petition is also dismissed.