
(1997) 09 RAJ CK 0043

In the Rajasthan High Court

Case No : Civil Writ Petition-No. 1244 of 1991

Smt. Sunder Kanwar

APPELLANT

Vs

The Board of Revenue

RESPONDENT

Date of Decision : 17-09-1997

Acts Referred:

Rajasthan Tenancy Act, 1955 — Section 30DD

Citation : (1997) 3 RLW 1963 : (1998) 1 WLC 585 : (1997) 2 WLN 490

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Chauhan, J.—The instant case, the writ petition has been filed against the judgment and order dated 15th March 1989, passed in Appeal No. 717/84/ceiling/Jalore by the Board of Revenue for the State of Rajasthan at Ajmer.

2. The petitioners submitted before the Board of Revenue that original assessee Sri Jeev Raj Singh who has been substituted by his son Ratan Singh had sold the land in 1965 and from the said transferor the petitioner purchased this land in 1979. The land purchased by them, has been acquired by the respondent No. 1 State under the provisions of the imposition of Ceiling on Agricultural Holdings Act, 1973 read with provisions of Chapter III/B of the Rajasthan Tenancy Act. Before the Board of Revenue only point urged by the petitioners, was regarding their right to be heard and on that issue, the Board of Revenue after placing reliance on Full Bench Judgment of this Court reported in Kesa v. The State of Rajasthan RLW 1987 1, rejected the contention of the petitioners. It has further been observed that the petitioners purchased the land from the person who had purchased the land in 1965 from the original assessee Sri jeev Raj Singh. The said transferee was not domicile of Rajasthan and he was resident of Gujarat. u/s 30 DD of the Rajasthan Tenancy Act, the transfer made to a non-domicile cannot be taken into consideration. Therefore, if the earlier transfer by Jeev Raj Singh in 1965 was not valid, there is no question of the transfer in favour of the petitioner

in 1979 to have any legal sanctity. Petitioner cannot claim to possess better title than their predecessor in interest.

3. In view of the above, I do not find any illegality or infirmity in the aforesaid judgment.

4. At this stage Mr. Champawat, learned Counsel for the petitioners has submitted that in the memo of appeal before the Board of Revenue, petitioners have raised a large number of questions which have not been considered by the Board.

5. Mere raising an issue in the writ petition does not warrant the Court to decide the same unless it is argued. In the case of Smt. Kamlesh Kumari Vs. State of Uttar Pradesh and Others, the Supreme Court has observed as under:

We are afraid that we cannot launch into an enquiry as to what transpire in the High Court. It is simply not done. Public Policy bars us. Judicial decorum restrains us. Matters of judicial record are unquestionable. They are not open to doubt. Judges cannot be dragged into the arena.. .If a party thinks that the happenings in court have wrongly recorded in a judgment, it is incumbent upon the party.. .to call the attention of the very Judges.. so the Judges record his conclusive. Neither lawyer nor litigant may claim to contradict it except before the Judge himself but nowhere else.

6. In Union of India (UOI) and Others Vs. N.V. Phaneendran, , the Apex Court has held that if a party has taken various grounds before the court below and not made submissions on all of that, it is not even desirable to remit the matter to the said court.

7. It has been canvassed before me that being a very hard case, this Court may adopt a lenient view in this case and grant relief on the basis of equity.

8. In Madamanchi Ramappa and Another Vs. Muthalur Bojjappa, , the Supreme Court has held as under:

What is administered in courts is justice according to law and consideration of fair and equity however important they may be, must yield to clear and express provisions of the law.

9. Similarly, in Gauri Shankar Gaur and Others, etc. Vs. State of U.P. and Others, , it has been held by the Supreme Court that "in construing a statute equity will not relieve against a public statute of general policy in cases admitted to fall within the statute and it is the duty of the court to give effect to the legislative intent."

10. Thus, equity can supplement to but cannot supplant the statutory provisions. In the instant case, petitioner cannot claim any equity in her favour.

11. Thus, in view of the above, I do not find any force in the petition, which is hereby dismissed. No order as to costs.