(2016) 07 RAJ CK 0029

In the Rajasthan High Court

Case No : Special Appeal (Writ) No. 637 of 2014 and Civil Writ Petition No. 10361 of 2012

Surjeet Singh APPELLANT

Vs

Board of Revenue RESPONDENT

Date of Decision : 19-07-2016

Acts Referred:
Rajasthan Land Revenue Act, 1956 — Section 84, 86

Citation : (2016) 2 WLCRajUC 356

Hon'ble Judges : Mr. Navin Sinha and Mr. Vijay Kumar Vyas, JJ.

Bench : Division Bench

Advocate : Mr. Shailesh Prakash Sharma, Advocate, for the Appellant; Mr. Jagmohan Bhardwaj, Advocate, for the Respondents

Final Decision : Allowed

Judgement

Navin Sinha C.J.—The present appeal arises from order dated 07/01/2014 dismissing S.B. Civil Writ Petition No. 10361/2012 declining interference with the order passed by the Board of Revenue dated 07/02/2012 allowing the application for review preferred by respondent No. 5 against the order dated 14/10/2005 passed by the Board of Revenue earlier dismissing the revision preferred by respondent No. 5.

2. Learned counsel for the appellant submits that allotment of the lands in the name of the appellant at Village Thikariya, Tehsil Bayana was cancelled by the Tehsildar in favour of respondent No. 5 by an ex-parte order without service of notice. The Additional Collector wrongly declined interference in appeal. The second appeal preferred by the appellant before the Revenue Appellate Authority was allowed on 06/03/1999 and the matter was remanded to the Tehsildar to pass fresh appropriate orders in accordance with law after hearing the parties. Aggrieved by the same, respondent No. 5 preferred a revision before the Board of Revenue, which dismissed it on 14/10/2005. Aggrieved thereby, respondent No. 5 preferred a review application before the Board of Revenue in 2005 itself,

which came to be decided on 07/02/2012. Apparently, on the face of it, there was no error apparent on the face of the record leading to a wrong determination of question for decision followed by a wrong conclusion. The only error was a typographical mistake when the order dated 15/12/1993 was attributed to the District Collector while it had been passed by the Tehsildar Bayana. The learned Single Judge therefore erred in concluding that no prejudice would be caused to the appellant if the revision was heard all over again.

3. Learned counsel for respondent No. 5 supported the order under appeal urging that no prejudice would be caused to the appellant as he would have an opportunity to raise all questions before the Board of Revenue under the revisional jurisdiction.

4. We have heard counsel for the parties.

5. The revisional power of the Board is prescribed in Section 84 of the Rajasthan Land Revenue Act, 1956 and is very widely worded. The jurisdiction extends on other matters including any material irregularity and the power to pass such orders in the case as it thinks fit. The power of review is to be found in Section 86, which is narrow and prescribed to errors apparent on the face of the record in terms of the Code of Civil Procedure.

6. The Board of Revenue in the order dated 07/02/2012 has appreciated the principles and the limits of its jurisdiction properly but applied it wrongly. It is not in dispute that the order of the Tehsildar was passed behind the back of the appellant. Therefore, the revision preferred by respondent No. 5 against the order of the Revenue Appellate Authority dated 06/03/1999 was rightly dismissed on 14/10/2005 by the Board of Revenue. If there was a wrong reference ascribing the order dated 15/12/1993 to the District Collector instead of the Tehsildar, we fail to understand as to how it makes a material difference between the conclusion arrived at by the Board while dismissing revision application on 14/10/2005 so as to require de-novo hearing of the same. No such discussion is to be found in the order dated 07/02/2012.

7. In conclusion, we are therefore unable to sustain the order under appeal as also the order dated 07/02/2012. Both orders are set-aside.

8. The Tehsildar shall now proceed to hear the parties and decide the matter at the earliest in accordance with the order of the Revenue Appellate Authority dated 06/03/1999, preferably within a maximum period of six months from the date of receipt of production of copy of this order, provided the parties themselves cooperate.

9. The appeal is allowed.

10. Appeal allowed - Both Orders of Revenue Board set aside ? Tehsildar Directed to hear parties as per order of Revenue Appellate Authority .

