(2014) 01 RAJ CK 0220

In the Rajasthan High Court

Case No : Civil Writ Petition No. 10361/2012

Surjeet Singh APPELLANT

Vs

Board of Revenue RESPONDENT

Date of Decision : 07-01-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 152

Citation : (2014) 3 WLN 298

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Saket Pareek and A.N. Sharma, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by the petitioner assailing the order of the Board of Revenue Dt. 07.02.2012 whereby it has accepted the review petition filed by respondent No. 5 and recalled its earlier order Dt. 14.10.2005 and directed the hearing of the revision petition filed by the respondent No. 5 afresh. Shri Saket Pareek, learned counsel for the petitioner has argued that the review petition could not have been allowed by the Board of Revenue inasmuch as the order passed by the Board of Revenue earlier on 14.10.2005 does not suffer from any such error apparent on the face of record as would justify review or recall. Learned counsel for the petitioner submits that rehearing cannot be permitted in the guise of review. As per the settled law, the kind of mistake pointed out by the Board in the review petition does not fall within the purview of error apparent on the face of record. It is argued that there may be two opinions on one issue, but that hardly can be a ground of review. Respondent No. 5 did not even plead any such error or mistake in the review petition, nor the Board of Revenue found such mistake by which the review could be maintained. Learned counsel relied on the judgment of Supreme Court in State of Punjab Vs. Darshan Singh, and argued that according to the ratio of that judgment only clerical or arithmetical mistake could be corrected in the scope of

Section 152 of CPC, which power cannot be said to be akin to review or even said to clothe the Court concerned under the guise of invoking the review power.

2. Perusal of the order passed by the Board of Revenue Dt. 07.02.2012 indicates that in Para 6 thereof, the Board had taken note of the fact that in earlier judgment Dt. 14.10.2005, the single bench of the Board has in Para 4 stated that the District Collector, Bharatpur had cancelled the allotment made in favour of Surjeet Singh on 15.12.1996, whereas, there was no such order available on record. That order, in fact, was passed by Tehsildar Bayana. Tehsildar Bayana in that order after cancelling the allotment in favour of Surjeet Singh, has made allotment of the same land to the petitioner. The Board has then held that mere deposit of amount on 18.12.1992 did not amount to allotment. Earlier order according to the Board suffers from error apparent on record and therefore review was ordered. The review and recall of the judgment has merely resulted in revival of the revision petition filed by respondent No. 5 and, therefore, all that would happen is that the revision petition would be heard afresh and decided again.

3. In the circumstances, this Court does not deem it appropriate to interfere as in its view the judgment passed by the Board of Revenue Dt. 07.02.2012 does not suffer from any legal infirmity. The writ petition is dismissed. However, the Board of Revenue is directed to decide the revision within six months from the date copy of this order is produced before it.