
(1977) 01 RAJ CK 0021
In the Rajasthan High Court
Case No : Civil Miscellaneous Writ No. 1767/75

Uchab Kanwar

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 25-01-1977

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1977) RLW 44 : (1977) WLN 14

Hon'ble Judges : M.L. Joshi, J

Bench : Single Bench

Judgement

M.L. Joshi, J.—This is a writ petition under Article 226 of the Constitution of India wherein the petitioner has prayed for quashing the order of Sub-Divisional Officer dated 18th of October, 1975 (Ex. 3) and the order dated 22nd of October, 1975 of the Revenue Appellate Authority Bikaner (Ex. 4).

2. This facts giving rise to this petition briefly stated are as follows: One deceased Khivsingh was holding 440 Bighas of Nahari land. Khiv Singh died on 7th of August, 1966 leaving behind him two sons Karni Singh and Nathusingh and three daughters Uchabkanwar (petitioner) Smt. Jatankanwar and Smt. Pusupkanwar besides two widows Smt. Jaskanwar and Smt. Bhim Kanwar. According to the petitioner, on the death of Khivsingh the land held by deceased Khivsingh devolved upon his heirs, namely, sons, daughters and widows and the petitioner received her share in the land by succession which was recorded in the Jamabandi by mutation in her favour.

3. The further case of the petitioner is that in pursuance of Chapter IIIB of the Rajasthan Tenancy Act deceased Khivsingh submitted a declaration regarding the lands held by him but no progress could be made in the matter of determination of the ceiling area in respect of the land held by him during his life time. The Sub-Divisional Officer Hanumangarh, however, by his order dated 5-11-73 in the course of determination of the ceiling area came to hold that out of the heirs of deceased Khiv Singh only Nathu Singh and Karnisingh were entitled to hold 69

Bighas of land each and consequently declared 382 Bighas 13 Biswas land as surplus.

4. The heirs of the deceased Khivsingh having felt aggrieved by the aforesaid order of the learned Sub-Divisional Officer moved the Revenue Appellate Authority Bikaner by way of appeal. The Revenue Appellate Authority by its judgment dated 13th August, 1974 held that each of the six heirs of the deceased Khivsingh were entitled to hold 69 Bighas of Nahari land or its equivalent i.e. 828 Bighas of Barani land. The Revenue Appellate Authority therefore sent the case back to the Sub-Divisional Officer to determine the ceiling according to the direction made in its decision and thereafter if it finds any surplus land that may be taken over under the law of ceiling.

5. The case went back to the learned Sub-Divisional Officer. The Sub-Divisional Officer although took notice of the decision of the Revenue Appellate Authority remanding the case to him but did not recognise shares of all the six heirs as directed by the Revenue Appellate Authority but held that sons of deceased Khivsingh, namely, Karnisingh and Nathusingh were entitled to 69 Bighas of land each per unit. He, however, treated these two sons as units for the reasons which are not clear on the record and on that basis came to hold that the two sons of deceased Khivsingh were entitled to 207 Bighas of land and consequently declared 313 Bighas 13 Biswas of land as surplus.

6. The petitioner again felt aggrieved against this order and took the matter by way of appeal before the Revenue Appellate Authority Bikaner. The Revenue Appellate Authority refused to accept the appeal on the ground that the same was not competent at that stage. The petitioner has, therefore, come by way of writ petition.

7. Although in this writ petition, the petitioner has taken several grounds but in view of the decision of the Special Bench of this Court he has confined his attack to the question that the learned Sub-Divisional Officer Hanumangarh could not pass orders in disregard of the directions given by the Revenue Appellate Authority dated 30th of August, 1974 as he was bound by the order of the Appellate Authority. It has been submitted by Mr. Hasti Mal that the learned Revenue Appellate Authority has clearly held that all the six heirs of deceased Khivsingh were entitled to equal shares in the land in question and so the learned Sub-Divisional Officer could not go beyond the directions of the Revenue Appellate Authority to hold that only his two sons Nathusingh and Karnisingh were entitled to the shares in the lands in question. It has been, therefore, contended that the impugned order of the Sub-Divisional Officer being in contravention of the directions of the Revenue Appellate Authority given in its order dated 30th of August, 1974 is without jurisdiction and is therefore void. In this connection learned Counsel for the petitioner has relied upon *The Bhopal Sugar Industries Ltd. Vs. The Income Tax Officer, Bhopal*, and *The Bhopal Sugar Industries Ltd. Vs. The Income Tax Officer, Bhopal*, it has been laid down that the subordinate authority is bound to carry out the directions given by the superior

tribunal. It has been observed in that case that if a subordinate Tribunal refuses to carry out the directions given to it by a superior Tribunal in the exercise of his appellate powers, the result will be chaos in the administration of justice." In Dharamchand Jain's case 1976 UC 504 the principle laid down is also to the same effect. In that case the appellant had applied for a grant of the mining lease in the area 66 acres in Tehsil Ramgarh and deposited the prescribed fees. The State Government did not pass any order on this application of the appellant in that case. The appellant in that case, therefore, filed a revision application before the Central Government on the basis that his application shall be deemed to have been rejected by the State Government as it was not disposed of during the prescribed statutory period. The Central Government in its revisional capacity passed an order directing the State Government to dispose of the application of the appellant in that case on or before September 13, 1962. The State Government failed to pass an order on the application as directed by the Central Government. Having failed to get relief from the State Government in accordance with the directions of the Central Government, the appellant in that case again preferred revision application before the Central Government. The Central Government invited the comments of the State Government on the revision application. The State Government took the stand that as the area in question was the subject matter of redistribution it has been advised not to grant mining lease particularly in view of certain injunction order passed by the Civil Court. On receipt of the comments the Central Government allowed the revision application and directed the State Government to grant the mining lease. The Central Government while passing the order observed that the order of Central Government dated 21st November 1964 left no direction to the State Government to refuse to grant the mining lease as the State Government v. as bound by the order of the Central Government. It was, therefore, held that the State Government could not have disregarded the order of the Central Government. Both these decisions referred to above squarely govern this case. The Sub-Divisional Officer, Hanumangarh was bound by the order of the Revenue Appellate Authority Bikaner which has determined six shares holding that the land shall be deemed to be held by the six shares units for the purpose of Ceiling Law. The order of the S.D.O. is therefore manifestly erroneous when he has held that the land has to be taken to be held by three units and the three units could only hold 207 Bighas of land. The order of the Sub-Divisional Officer is therefore without jurisdiction. This order was taken by way of appeal to the Revenue Appellate Authority which also obviously erred when it upheld the order of the S.D.O. passed in contravention of the directions contained in its previous order. The order of the Revenue Appellate Authority cannot be sustained in law and deserves to be quashed.

8. The learned Deputy Government Advocate submitted that the petitioner could agitate this point by way of appeal against the final order which might be passed but this contention does not at all impress me as the impugned order of the S.D.O. Hanumangarh in disregard of the directions contained in the Revenue

Appellate Authorities order dated 30th August, 1974 is wholly without jurisdiction.

9. In the result the writ petition is accepted, the order Ex. 3 of the learned S.D.O. dated 18-10-75 and the order of the Revenue Appellate Authority dated 22nd October, 1975 are quashed. This order shall however not debar the State Government to reopen the proceedings according to law if it Feels that the order of the Revenue Appellate Authority dated 30th of August, 1974 was contrary to the provisions of Chapter IIIB of the Rajasthan Tenancy Act. In the facts and circumstances of the case the parties are left to bear their own costs.