

IN THE BOARD OF REVENUE FOR RAJASTHAN AJMER

1.Revision/LR/5729/2007/Jodhpur.

1. Sobhag Singh son of Ajit Singh
 2. Swaroop Singh son of Ajit Singh (deceased) through LR:-
 - 2/1 Raghvendra singh son of Swaroop Singh
 - 2/2 Suryaveer Singh son of Swaroop Singh
 - 2/3 Smt. Basant Usha wife of late Swaroop Singh
- All by caste Rajput residents of Ajit Bhawan, Jodhpur.

...Petitioners.

Versus

1. Narpat Singh son of Bhoor Singh caste Rajput resident of village Maulasar presently residing at Jodhpur.
 2. Kalyan Singh son of Sujan Singh caste Rajput resident of Maulasar presently residing at Jodhpur.
 3. State of Rajasthan through Tehsilar, Jodhpur.
- ...Non-petitioners.

2. Revision/LR/5730/2007/Jodhpur.

1. Sobhag Singh son of Ajit Singh
 2. Swaroop Singh son of Ajit Singh (deceased) through LR:-
 - 2/1 Raghvendra singh son of Swaroop Singh
 - 2/2 Suryaveer Singh son of Swaroop Singh
 - 2/3 Smt. Basant Usha wife of late Swaroop Singh
- All by caste Rajput residents of Ajit Bhawan, Jodhpur.

...Petitioners.

Versus

1. Bhanwar Lal son of Lala Ram caste Bishnoi resident of village Chandelav Tehsil Bilara Distt. Jodhpur.
 2. State of Rajasthan through Tehsilar, Jodhpur.
- ...Non-petitioners.

3. Revision/LR/5731/2007/Jodhpur.

1. Sobhag Singh son of Ajit Singh
 2. Swaroop Singh son of Ajit Singh (deceased) through LR:-
 - 2/1 Raghvendra singh son of Swaroop Singh
 - 2/2 Suryaveer Singh son of Swaroop Singh
 - 2/3 Smt. Basant Usha wife of late Swaroop Singh
- All by caste Rajput residents of Ajit Bhawan, Jodhpur.

...Petitioners.

Versus

1. Budha Ram son of Padma Ram
2. Kirta Ram son of Padma Ram
3. Sanwla Ram son of Mala Ram

All by caste Jat residents of Dantiwada Tehsil & Distt. Jodhpur.
 4. State of Rajasthan through Tehsilar, Jodhpur.
 ...Non-petitioners.

4. Revision/LR/5732/2007/Jodhpur.

1. Sobhag Singh son of Ajit Singh
 2. Swaroop Singh son of Ajit Singh (deceased) through LRs:-
 2/1 Raghvendra singh son of Swaroop Singh
 2/2 Suryaveer Singh son of Swaroop Singh
 2/3 Smt. Basant Usha wife of late Swaroop Singh
 All by caste Rajput residents of Ajit Bhawan, Jodhpur.

...Petitioners.

Versus

1. Narpat Singh son of Bhoor Singh caste Rajput resident of village
 Maulasar presently residing at Jodhpur.
 2. Kalyan Singh son of Sujan Singh caste Rajput resident of
 Maulasar presently residing at Jodhpur.
 3. State of Rajasthan through Tehsilar, Jodhpur.
 ...Non-petitioners.

5. Revision/LR/5733/2007/Jodhpur.

1. Sobhag Singh son of Ajit Singh
 2. Swaroop Singh son of Ajit Singh (deceased) through LRs:-
 2/1 Raghvendra singh son of Swaroop Singh
 2/2 Suryaveer Singh son of Swaroop Singh
 2/3 Smt. Basant Usha wife of late Swaroop Singh
 All by caste Rajput residents of Ajit Bhawan, Jodhpur.

...Petitioners.

Versus

1. Smt. Mima wife of late Chhoga Ram caste Bishnoi resident of
 Guda Bishnoiyan Tehsil Luni Distt. Jodhpur.
 2. State of Rajasthan through Tehsilar, Jodhpur.
 ...Non-petitioners.

S.B.

Shri Bajrang Lal Sharma, Member

Present:-

Shri Gulab Singh Champawat, counsel for the petitioners.
 Shri Bhawani Singh, Shri Dungar Singh and Shri Ladu Ram Punia,
 counsel for the non-petitioners.

Date: 07.02.2013

J U D G M E N T

The petitioners have filed the five revision petitions mentioned
 hereinabove under section 84 of the Rajasthan Land Revenue Act,
 1956 (in short 'the Act') being aggrieved by the judgment passed by

Divisional Commissioner, Jodhpur on 26.5.2007 in appeal No. 222/06, 223/06, 224/06, 225/06 and 226/06.

2. Since the legal issues involved in these cases are similar in nature; therefore, these cases are being disposed of by this common judgment. The copy of the judgment may be kept in each of the file separately.

3. The brief facts of these cases in hand are that late Ajit Singh, was a khatedar tenant of Bisalpur village against whom proceedings under the Rajasthan Tenancy (Fixation of Ceiling on Land) Act were initiated and the Sub-Divisional Officer, Jodhpur passed an order on 4.10.1971 to acquire his land in village Bisalpur, Chawandia (Tehsil Jaitaran) and village Narlai (Tehsil Desuri). The State Government was apprised that the authorized officer has not rightly decided the ceiling case. Therefore, the ceiling case was re-opened and the Additional Collector, Jodhpur after hearing the late tenant Ajit Singh's sons Sobhag Singh and Swaroop Singh passed an order on 3.3.1986. The learned Additional Collector found that total 4289 bighas land in Bisalpur and 32 bighas land in Pali district is in tenancy of the assessee; therefore, he can have 30 standard acres land for his family and rest of the land is to be acquired being excess to the prescribed ceiling limit. The Additional Collector also asked the assessee to submit his option within thirty days. Being aggrieved by the judgment passed by the Additional Collector, first appeal was filed by the petitioners-appellants before the Board of Revenue and learned Single Bench of this court partly accepted their appeal and observed that there are three members in the family namely Ajit Singh, and his two sons namely Sobhag Singh and Swaroop Singh. So every member of the family has 149.49 standard acres land in its share and one member can retain only 30 standard acres land. Therefore, every member of the family will have to surrender 119.49 standard acres of land being excess to the ceiling limit to the government. The court also observed that some of the land is disputed and the land which has already been acquired by the Government will be considered in favour of the assessee. Learned

Single Bench of this court ordered that 119.49 standard acres of land should be acquired from the every member of the assessee's family. The petitioners again filed a review petition before this court that there was some calculation mistake in the order passed by the Single Bench of this court on 13.8.1991 which was decided by this court on 31.5.2002, wherein it was inferred that every member of the family will have only 139.49 standard acres instead of 149.49 standard acres. Therefore, it should be read as 139.49 standard acres. In compliance of the judgment passed by this court on 31.5.2002, the Additional Collector, Jodhpur passed an order to acquire 119.49 standard acres of land in total instead of 418.48 standard acres and the land be entered as government land. In compliance of the judgment passed by the Board of Revenue and the order passed by Additional Collector (Administration), Jodhpur on 23.2.2000, a mutation No. 1518 was sanctioned by the Naib Tehsildar, Jodhpur on 18.6.2005, wherein out of 3843.09 bighas land of village Bisalpur, 2614.12 bighas of land was entered in the khatedari of Sobhag Singh and and Swaroop Singh and only 1228.17 bighas land was acquired in consequence of the ceiling proceedings initiated against them. Being aggrieved by this mutation, the non-petitioners filed seven appeals before the Collector, Jodhpur which were dismissed by a common order on 28.8.2006 on the sole ground that the mutation has been sanctioned in compliance of the court order passed in ceiling proceedings. Therefore, the parties should file appeal or writ petition against the final judgment passed in the ceiling proceedings. Being aggrieved by the judgment passed by the Collector in these seven appeals, five appeals were filed before Divisional Commissioner, Jodhpur which were accepted and the judgment passed by the Collector on 28.8.2006 and mutation No. 1518 sanctioned by Naib Tehsildar were quashed and set aside. Being aggrieved by the judgment passed by the Divisional Commissioner, Jodhpur, these revision petitions have been preferred before this court.

4. Heard the learned counsels of the parties.

5. The learned counsel for the petitioners contended that the final order passed by the Board of Revenue in review petition on 31.5.2002 became final and on that basis only 139.49 standard acres could have been taken from the assessee. He strongly argued that no appeal against the impugned mutation can be entertained because the mutation has been sanctioned in compliance of the final judgments passed by the Board of Revenue in the ceiling proceedings. These mutations have been sanctioned in compliance of the court order and they have not been sanctioned by the Naib Tehsildar while applying his own mind. He finally urged the court that the judgment passed by the Collector is a reasoned order and this mutation which was sanctioned in compliance of the court order could not have not been quashed and set aside by the learned Divisional Commissioner. The learned advocate submitted that the Divisional Commissioner did not mention why these appeals have been admitted without any application under section 96 of the Civil Procedure Code and they could not have been entertained.

6. The learned counsels for the non-petitioners contended that they are the bona fide buyers and on the basis of the sale deeds mutations were sanctioned in their favour but when these ceiling proceedings were initiated against Ajit Singh, the disputed land was entered as government land and when the assessee gave his option, he surrendered that land which was bought by the non-petitioners.

7. The learned advocate Shri Dungar Singh Rathore also contended that the judgment passed by the Board of Revenue was wrongly interpreted by the Additional Collector, Jodhpur because the final judgment passed by Board of Revenue in review petition was that 139.49 standard acres land was to be acquired from each of the assessee namely Ajit Singh, Sobhag Singh and Swaroop Singh but in this case, the learned Additional Collector only acquired 119.48 standard acres land. The learned advocate submitted that the ceiling proceedings which were initiated in the year 1970 were conclusively decided by the Board of Revenue in 2005 but even at this juncture

the land which was to be acquired from them was 109.49 standard acres from each assessee which simply means that total land which was to be acquired from them was 329.47 standard acres should have been acquired but the revenue staff has just taken only 119.49 standard acres which is misuse of jurisdiction on some or the other pretext. The learned advocates finally urged the court that the non-petitioners are the bona fide buyers, they had faith in the ex-maharaja Ajit Singh. They even trusted his unregistered documents but the sons/ grandsons of Ajit Singh have just cheated them and gave that land in option which was sold by their father/ grandfather to the non-petitioners. The learned advocates also submitted that the judgment passed by the Additional Collector, Jodhpur in the re-opened case on 3.3.1986 is a reasoned order and the judgment passed by the Divisional Commissioner does not suffer from any illegality. Therefore, these revision petitions be dismissed.

8. I have given thoughtful consideration to the rival contentions raised by learned advocates of the parties and also perused the record available on file and the citations referred.

9. This court has very carefully perused the judgment passed by the learned Additional Collector, Jodhpur in the re-opened case under section 15(2) of the Ceiling Act, 1973 on 3.3.1986. In this judgment the Additional Collector has passed a detailed judgment and found that in total Ajit Singh, the assessee, had 4321 bigha land (4289 bighas in village Bisalpuer and 32 bighas land in Pali district). Out of this land the assessee has the right to retain only 30 standard acres. The Additional Collector directed the assessee to file his option for the 30 standard acres land which is to be retained by him and the rest of the land was to be acquired.

10. In appeal before this court it was held that Ajit Singh and his two sons Sobhag Singh and Swaroop Singh can have three independent units because the land is an ancestral land and all the three major members of the family have their independent share. Vide judgment by this court it was held that every assessee will have

a share of 149.49 standard acres in total land to be acquired which comes to 448.48 standard acres and as per the ceiling limit 30 standard acres can be retained by each of them. Therefore, every member of the family shall have to surrender 119.49 standard acres land being excess of the ceiling limit.

11. In a review petition filed before this court it was further held on 31.5.2000 that if we make three shares of 418.48 standard acres it comes to 139.49 standard acres instead of 149.49 standard acres. It was observed by this court that the judgment passed on 13.8.1991 had a computation mistake; therefore, it is corrected and 149.49 standard acres will be read as 139.49 standard acres. The order passed on 13.8.1991 was amended accordingly. In compliance of the judgment passed by this court on 13.8.1991, the learned Additional Collector made an order on 23.2.2000 wherein it was ordered that only 119.49 standard acres land should be acquired by the government instead of 418.48 standard acres, the Tehsildar was instructed to comply with the orders.

12. This court has carefully perused the order passed by learned Additional Collector on 23.2.2000 and the mutation No. 1518 sanctioned by the Tehsildar on 18.6.2005 of village Bisalpur. If we take a glance over the entire ceiling proceedings initiated against Ajit Singh till the mutation finally sanctioned in consequence of the judgment passed by the Single Bench of this court in review petition on 31.5.2002, it was very clear that the family of Ajit Singh had to surrender 418.48 standard acres of land being excess of the ceiling limit. This court finally gave entitlement to three members of the family namely Ajit Singh, Sobhag Singh and Swaroop Singh which means that every person of the family will have a share of 139.49 standard acres land out of which they can retain only 30 standard acres and rest of the land is to be acquired by the government being excess to the ceiling limit.

13. This is a travesty of justice that the ceiling proceedings in question which were part of the national scheme of land reforms and

had a constitutional mandate being put in the 9th Schedule of the Constitution. Despite all that these proceedings have been decided and implemented in such a callous and negligent manner in this particular case. The learned Additional Collector instead of acquiring 329.47 standard acres land from Ajit Singh, Sobhag Singh and Swaroop Singh, he wrongly interpreted the judgment passed in favour of the petitioners and just acquired 119.49 standard acres of land in total. Nothing could have been worst than this situation that an assessee has wrongly been benefited with a liberal heart by the revenue staff.

14. This is also very pertinent to mention here that the non-petitioners are the bona fide buyers who purchased the disputed land from the father/ grandfather of the petitioners namely Ajit Singh in contravention of the ceiling laws. Ajit Singh, the assessee collected money from them. He knew it very well that such transfers cannot be recognized and they are bad in eye of law but he had done it just to circumvent the provisions of law and in his own interest. The non-petitioners were given possession of the disputed land after paying consideration and they are in possession of the land as on today but the petitioners who are sons/grand sons of late Ajit Singh chose to give the disputed land in option to the government, whereas under obligation of the provisions of law they had to surrender the unencumbered vacant land to the State. In this regard section 30E of the Old Ceiling Law and section 18 of the 1973 Act are very relevant. Both the provisions are very explicit and reveal that unencumbered land should be given to the state. The non-petitioners are also at liberty to prosecute the petitioners for their criminal breach of trust in such circumstances.

15. In these circumstances this court is of the considered view that there is no merit in the revision petitions filed by the petitioners. The order passed by learned Additional Collector on 31.5.2000 was a bad order as it was not in compliance of the judgment made by the Board on 13.8.1991 and in compliance of that order mutation No. 1518 has also been wrongly sanctioned. Therefore, all the revision

petitions are dismissed. Consequently, the order passed by the Additional Collector on 31.5.2000 and mutation No. 1518 are quashed and set aside. The impugned judgment passed by the Divisional Commissioner is upheld.

16. This is also very important to mention that even after the judgment of the Board of Revenue on 13.8.1991 and thereafter in the review petition on 31.5.2002, the proceedings under the ceiling law against the assessee attained finality but the implementation of the judgment has been so delayed and negligent that the proceedings in this important case lost its relevance in the bureaucratic trap. This is a good example of administrative lethargy and inefficiency.

17. In these circumstances this court finds it appropriate to direct Collector, Jodhpur to get this judgment implemented in right spirit and will ensure that only unencumbered vacant land will be taken in possession in compliance of the judgment passed by this court on 13.8.1991 and 31.5.2002 and the total land to be acquired is 329.47 standard acres.

18. The Collector is also directed to comply with these directions within sixty days of this judgment. The Additional Registrar (Judicial), Board of Revenue is instructed to send the copy of the judgment by registered post to Collector, Jodhpur.

Pronounced.

(Bajrang Lal Sharma)
Member