

IN THE BOARD OF REVENUE FOR RAJASTHAN AJMER

Revision/TA/4481/2003/Dholpur.

1. Baliya son of Dhaniya
2. Mitthan Lal son of Dhaniya
3. Leelawati daughter of Dhaniya
4. Rantniya daughter of Dhaniya
5. Meera daughter of Dhaniya

All by caste Jatav residents of village Dhigi Tehsil Rajakhera distt.
Dholpur.

...Petitioners.

Versus

1. Lakhan Singh)
2. Megh Singh) sons of Omkar Nath caste Sapera residents
3. Chob Singh) of Village Khanpura Tehsil Rajakhera
4. Bachan Singh) Distt. Dholpur.
5. Achal Singh)
6. Ketki wife of Vipti caste Jatav resident of village Dhigi Tehsil
Rajakhera distt. Dholpur.
7. Subhash son of Mool Chand caste Mehtar resident of village Dhigi
Tehsil Rajakhera Distt. Dholpur.
8. State of Rajathan through Tehsildar Rajakhera.
9. Heera Devi wife of Shambhudayal
10. Shambhudayal son of Bangali
Both by caste Bodiya residents of Ward No. 16, Rajakhera Distt.
Dholpur.

...Non-petitioners.

S.B.

Dr. G.K. Tiwari, Member

Present:-

Shri Y.D. Sharma, counsel for the petitioners.

Shri Shriniwas Beniwa, counsel for the non-petitioners.

Date: 22 March 2012

J U D G M E N T

This revision petition, under section 230 of the Rajasthan Tenancy Act 1955 (in short 'the Act'), is directed against the impugned judgment dated 11.7.2003 of Settlement Officer-cum-Revenue Appellate Authority Bharatpur. He has allowed an application filed under Order 41 Rule 20 read with Order 1 Rule 10 of the Civil Procedure Code (C.P.C.) by this order.

2. The brief facts of the case are that Assistant Collector Rajakhera dismissed the suit No. 112/91 pending before him entitled Kalawati Vs. Lakhan Singh etc. under Order 7 Rule 11 of the C.P.C. vide his judgment dated 22.7.1999 which was challenged by the petitioners

under section 223 of the Act before Settlement Officer-cum-Revenue Appellate Authority Bharatpur. During the pendency of this appeal, non-petitioners No. 9 and 10 submitted an application under Order 41 Rule 20 and Order 1 Rule 10 of the C.P.C. for impleading them as a party on the ground that they had purchased the disputed land through a registered sale deed from the non-petitioners No. 1 to 5. Revenue Appellate Authority allowed this application vide the impugned judgment dated 11.7.2003. Aggrieved against it, the petitioners have preferred the revision in this court.

3. I have heard the learned counsels of both the parties.

4. The learned counsel for the petitioners contended that the alleged purchase was made on 28.6.2001 during pendency of the litigation and as such was hit by the provision of section 52 of the Transfer of Property Act. The learned counsel contended that the principle of lis-pendence applies here and the purchasers of the disputed land during litigation cannot be impleaded as party. The learned counsel cited 2010 RJT 23 (S.C.) and 2007 CLT 126 in support of his contention. The learned counsel pressed for quashing of the impugned judgment.

5. Opposing the contentions of the petitioners, the learned counsel for the non-petitioners pleaded that the non-petitioners-vendors were served upon with the summons of the appeal on 7.8.2001, whereas they had already sold the land through registered sale deed dated 28.6.2001. As such the principle of lis-pendence does not apply in this case. Citing 2007 RLW (2) 843 (S.C.) and 2005 RBJ 316 (S.C.), it was contended that bona fide purchasers having acquired right and interest in the disputed land are necessary party and as such Revenue Appellate Authority did not commit any illegality in impleading them as respondents.

6. I have given thoughtful consideration to the rival contentions, perused the impugned judgment and gone through the material on record.

7. The moot point before me to decide is whether the non-petitioners No. 9 and 10 are necessary party to the appeal pending consideration before Settlement Officer-cum-Revenue Appellate Authority and as such whether they were rightly impleaded as respondents, or not. Perusal of the copy of the sale deed dated

28.6.2001 shows that the respondents No. 1 to 5 have sold the disputed land to the non-petitioners No. 9 and 10. Apparently, these purchasers of the land have acquired interest in the disputed land under consideration. In such a situation interested persons should be given an opportunity of hearing according to the principle of natural justice before finally deciding the case. Any cogent inference about alleged commission of an act against the principle of lis-pendence should also be decided after providing opportunity of hearing to affected persons and all the interest parties.

8. In the case of '**Dhanlakshimi and Ors. Vs. P. Mohan and Ors.**' as reported in 2007 RLW (2) 843, Hon'ble Supreme Court has held as under:-

"Admittedly, the appellants, having purchased the property from the other co-sharers, in our opinion, are entitled to come on record in order to work out the equity in their favour in the final decree proceedings. In our opinion, the appellants are necessary and proper parties to the suit. "

Similarly in '**Amit Kumar Shaw and Ors. Vs. Fardia Khatoon and Ors.**' as reported in 2005 RBJ (12) 316, Hon'ble Supreme Court has propounded as under:-

"Transferee pendente lite of an interest in immovable property is a representative in interest of the party from whom he has acquired that interest. He is entitled to be impleaded in the suit or other proceedings where the transferee pendent lite is made a party to the litigation, he is entitled to be heard in the matter on the merits of the case."

9. In view of the foregoing discussion, I do not find any jurisdictional error or illegality or material irregularity in the impugned judgment. Therefore, the revision is without force.

10. As a result, the revision stands dismissed.

Pronounced.

(Dr. G.K. Tiwari)
Member