

**IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER**

**Reference No.3153/2004/LR/Jaipur :**

State of Rajasthan, through Tehsildar Chaksu District Jaipur.

... Petitioner.

**Versus**

- |    |                          |   |                    |
|----|--------------------------|---|--------------------|
| 1. | Laxminarain              | } | sons of Shri Ratna |
| 2. | Ramkishore               |   |                    |
| 3. | Rameshwar                |   |                    |
| 4. | Bajranga S/o Shri Pratap |   |                    |
- All are by caste Jat, residents of Vrindanpura  
alias Roopwas, Tehsil Chaksu, District Jaipur.

... Non-Petitioners.

\* \* \*

**S.B.**

Shri Pramil Kumar Mathur, Member

**Present :**

Shri Shokind Lal Gurjar, Dy.Govt.Advocate for the State.

Shri Shyam Babu Pareek, counsel for non-petitioners no.1 & 2.

None present on behalf of the non-petitioners no.3 & 4.

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Dated : 11<sup>th</sup> April, 2012

**J U D G M E N T**

This reference has been made by Additional Collector (Third), Jaipur under section 82 of the Rajasthan Land Revenue Act, 1956 (in short to be referred as 'the Act') by his order dated 15.01.2004.

2. Brief facts of the case are that according to Additional Collector (Third), Jaipur the disputed land bearing khasra No. 36 area 15 biswa and khasra No.37 area 9 biswa situated in Village Roopwas Tehsil Chaksu District Jaipur was recorded in the name of Temple Maufi Mandir Shri Chaturbhuj Ji Maharaj as per Misal Bandobast of Samvat 2008 to 2023. At the time of land consolidation in Samvat 2022, from the above khasra nos., new khasra no. 22 area 3 bigha 16 biswa was made and the name of temple was deleted by entering the name of the non-petitioners/tenants and mutation No.64 dated 19.3.1972 was effected thereto in favour of non-petitioners. As per present Jamabandi Samvat 2057 to 2060, the disputed land having new khasra nos. 79 to 84 area 0.08, 0.11, 0.16, 0.28, 0.11, 0.15 hectare respectively total area 0.89 hectare was entered in the name of non-petitioners. Thus, the present reference has been made to restore 1 bigha 4 biswa

land out of this land with deletion of the name of non-petitioners from revenue records. Considering this transfer of the temple land to the non-petitioners as illegal being violative of section 46 of Rajasthan Tenancy Act,1955, District Collector, Jaipur has made this reference to the Board of Revenue.

3. I have heard the arguments of learned counsel for the parties and perused the record.

4. In support of reference, learned Dy.Govt.Advocate submitted that initially disputed land was entered in the name of Maufi Mandir Shri Chaturbhuj Ji Maharaj. Temple is perpetual minor and cannot cultivate personally, ignoring this settled position of law & violating the provisions of the Rajasthan Tenancy Act, 1955 khatedari rights were given to non-petitioners, which is illegal. Hence, reference be accepted.

5. Learned counsel for the non-petitioners has submitted that temple is not the khatedar of disputed land. As per the circulars issued on dated 24.5.2007, 6.01.2010 & 25.11.2011 by the State Government, the disputed land requires to be remained with the non-petitioners. As time & again, directions have been issued by the Rajasthan Government to enter the name of the persons as khatedars who were in cultivatory possession of the land having the status of tenant or sub-tenant; therefore in the light of the above circulars, present reference has no significance, hence requires to be rejected.

6. I have given my earnest consideration to the rival arguments advanced by learned counsels and scanned the matter carefully.

7. It transpires that circulars dated 24.5.2007, 6.01.2010 & 25.11.2011 issued by the State Government have highlighted the provisions of the Rajasthan Land Reforms & Resumption of Jagirs Act, 1952 (in short "the Jagirs Act").

8. Indisputably as held by legal fiction and by series of cases decided by different Hon'ble High Courts as well as by Hon'ble Apex Court, temple/ idol is a perpetual minor and it is not possible for temple to cultivate the land personally even the provision of section 2(K) of "the Jagirs Act" says that in the case of a person who is a minor, land shall be deemed to be cultivated personally even in the absence of such personal supervision.

9. It is evident from the case file that originally the land in dispute was entered in the name of Maufi Mandir Shri Chaturbhuj Ji Maharaj and thereafter in the consolidation proceedings, the disputed land has been entered in the name of

the non-petitioners instead of Maufi Mandir Shri Chaturbhuj Ji Maharaj. Though it is trite that State Government has issued various circulars in the light of section 9 of "the Jagirs Act", yet section 9 of "the Jagirs Act" carries the very simple language stating that "Every tenant in a jagir land who at the commencement of this Act is entered in the revenue records as a khatedar, pattedar, khadamdar, or under any other description implying **that the tenant has heritable and full transferable rights** in the tenancy shall continue to have such rights and shall be called a khatedar tenant in respect of such land." conveying the meaning that all the persons who were shown as khatedar, pattedar, khadamdar, or under any other description having the **heritable and full transferable rights** shall continue to have such rights. Therefore, on the basis of the above circulars along with the provisions of "the Jagirs Act", it must have to be seen that the person claiming the khatedari rights must have **heritable & transferable rights** in the tenancy at the time of commencement of "the Jagirs Act".

10. The pre-requisite condition for claiming khatedari rights on the strength of section 9 of "the Jagirs Act" is that person claiming such rights should prove the fact that he was entered in the revenue record as a khatedar, pattedar, khadamdar or under any other description implying **that the he had heritable and full transferable rights** in the tenancy. The non-petitioners did not specifically plead such a case and they did not at all prove any of the requirements of section 9 of "the Jagirs Act". So merely on the basis of the Government circulars (which admittedly have no legal force), unless the conditions enumerated in section 9 of "the Jagirs Act" are fulfilled or proved by non-petitioners and **heritable or transferable rights** as envisaged in section 9 of "the Jagirs Act" were disclosed and proved, the khatedari of the disputed land cannot be claimed by the non-petitioners.

11. In view of above discussion, the reference is accepted and the disputed land is ordered to be restored in the khatedari of "Maufi Mandir Shri Chaturbhuj Ji Maharaj" with deletion of the names of non-petitioners as khatedars from the revenue records. The reference is disposed of accordingly.

Pronounced in open court.

(PRAMIL KUMAR MATHUR)  
Member