

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

Revision No.2625/2005/TA/Jaipur :

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|-----|-----------------------------|---|---|
| 1. | Surajkaran | } | sons of Shri Dhanna |
| 2. | Harnath | | |
| 3. | Rameshwar | | |
| 4. | Shrawan Lal | } | sons of Shri Pemaram G/sons of Shri Govindram |
| 5. | Baluram | | |
| 6. | Bannaram | } | sons of Shri Govindram |
| 7. | Surajkaran | | |
| 8. | Moolchand | | |
| 9. | Devilal | } | sons of Shri Mohru |
| 10. | Harlal | | |
| 11. | Baluram | | |
| 12. | Jairam | | |
| 13. | Baluram S/o Shri Bholuram | | |
| 14. | Bhura | } | sons of Shri Chhotu |
| 15. | Ramkaran | | |
| 16. | Balu | } | sons of Shri Soniram |
| 17. | Sanwata | | |
| 18. | Gulli widow of Shri Soniram | | |

All are by caste Jat, residents of Jevlya Ki Dhani,
Tan Bichoon, Tehsil Dudu, District Jaipur.

... Petitioners.

Versus

Laxminath Ji Maharaj Virajman Bichoon, through Pujari
Madan Lal S/o Shri Laduram, by caste Sharma,
R/o Village Bichoon, Tehsil Dudu, District Jaipur.

... Non-Petitioner.

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S.B.

Shri Pramil Kumar Mathur, Member

Present :

Shri Dungar Singh Rathore : counsel for the petitioners.

Shri J.K. Pareek : counsel for the non-petitioner.

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Dated : September 18, 2012

J U D G M E N T

The present petition has been filed by the petitioners under section 230 along with section 221 of the Rajasthan Tenancy Act, 1955 (hereinafter to be referred as 'the Act') challenging the order dated 03.7.2000 passed by the learned Assistant Collector, Dudu District Jaipur in civil suit no.137/97 whereby the learned trial court has dismissed the application of the petitioners filed under Order 1 Rule 10 of the Code of Civil Procedure for impleading the recorded khatedar of the disputed land as the party-defendant.

2. The short facts giving rise to the present petition are that non-petitioner as plaintiff has filed a revenue suit before the trial court against the present petitioners seeking declaration, possession & permanent injunction of the disputed land. The suit has been contested by the petitioners & during the pendency of the suit, the petitioners as defendants submitted an application under Order 1 Rule 10 of the Code of Civil Procedure for impleading Bhanwar Lal and Shrawan Lal as party-defendant in the said suit. The application submitted by the petitioners has been dismissed by the trial court by impugned order dated 03.7.2000. Being aggrieved by the said order, the present petitioners invoking revisional as well as supervisory jurisdiction of the Board of Revenue have filed this revision petition.

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

4. It has been submitted by the learned counsel Shri Dungar Singh Rathore for the petitioners that chunk of the disputed land bearing khasra nos. 112, 136 & 137 has been recorded in favour of Bhanwar Lal and Shrawan Lal. As Bhanwar Lal and Shrawan Lal are the recorded khatedars, hence for the purpose of deciding the controversy in dispute effectively, presence of recorded khatedar is necessary. The finding of the trial court in impugned order is erroneous as Bhanwar Lal and Shrawan Lal being the recorded khatedar are necessary party, therefore, they were required to be impleaded in the suit.

5. The learned counsel Shri J.K. Pareek appearing for the non-petitioner, supporting the impugned order passed by the trial court, has submitted that there being no jurisdictional error committed by the trial court, the petition deserves to be dismissed.

6. Having regard to the submissions made by the learned counsel for the parties and to the impugned order passed by the trial court, it appears that apart from the other suit lands, non-petitioner has claimed the khatedari of the disputed land bearing khasra nos. 112, 136 & 137 also. Perusal of Jamabandi of Samvat 2049 to 2052 reveals that above lands have been recorded in favour of Bhanwar Lal and Shrawan Lal. As Bhanwar Lal and Shrawan Lal are the recorded khatedar of the disputed land, hence their presence before the court is necessary in order to enable the court effectually & completely to adjudicate upon and settle all the questions involved in the suit and without impleading them as defendants, no effective decree can be passed with respect to khasra nos. 112, 136 & 137.

7. On consideration of the matter as stated above and in view of the facts of the case, I am of the view that learned trial court has committed jurisdictional error in dismissing the application submitted by the petitioners filed under Order 1 Rule 10 of the Civil Procedure Code. Consequently, the present petition stands allowed & the impugned order passed by the learned Assistant Collector, Dudu District Jaipur dated 03.7.2000 is set aside. Learned trial court is directed to implead Bhanwar Lal and Shrawan Lal as defendants in the suit and proceed further accordingly.

Pronounced in open court.

(PRAMIL KUMAR MATHUR)
Member