WR

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

Appeal No.1555/2006/TA/Kota :

1. Vinod Kumar
2. Tej Mal
   Both sons of Jamna Shanker, by caste Raigar,
   residents of Village Mandana, Tehsil Ladpura,
   District Kota.

… Appellants.

Versus

State of Rajasthan

… Respondent.

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S.B. (Camp - Kota)
Shri Pramil Kumar Mathur, Member

Present :
Mr. Narendra Kumar Gupta : counsel for the appellants.
Mr. Shanti Prakash Ojha : Dy.Govt.Advocate for the respondent.

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Dated : 3rd October, 2012

J U D G M E N T

This second appeal has been preferred against the judgment & decree dated 22.12.2005 passed by the Revenue Appellate Authority, Kota in appeal no.32/05 whereby the learned Revenue Appellate Authority has maintained the judgment passed by the District Collector, Kota on 21.5.2002 in case no.161/2000 by which the learned District Collector had cancelled the allotment of the land made to present appellants.

2. In brief, by order dated 03.1.1989 the land bearing khasra no.1641 area 0.91 hectare situated at Village Mandana Tehsil Ladpura District Kota was allotted to Jamna Shanker, father of present appellants. On 19.8.2000, Naib Tehsildar, Mandana submitted an application before the District Collector, Kota under section 14(4) of the Rajasthan Land Revenue (Allotment of Land for Agricultural Purposes) Rules, 1970 (in short to be called "the Rules of 1970") stating that allottee Jamna Shanker has committed breach of conditions of the allotment as he has not

cultivated the land in time, therefore, his allotment is liable to be cancelled. At the instance of the above application, the learned District Collector after adopting due procedure cancelled the allotment of the disputed land made to Jamna Shanker, on 21.5.2002. Against the order of District Collector, Kota dated 21.5.2002, the present appellants preferred first appeal before the Revenue Appellate Authority, Kota. The learned Revenue Appellate Authority by impugned judgment dated 22.12.2005 maintained the judgment of the District Collector, Kota passed on 21.5.2002. Assailing the judgment of learned Revenue Appellate Authority, Kota delivered on 22.12.2005, the present appellants have preferred this second appeal.

3. Heard learned counsel for the appellants & Dy.Govt.Advocate for the State and perused the record.

4. Mr. N.K. Gupta, counsel for the appellants has urged that the appellants have complied with the entire conditions of the allotment. They are in the regular cultivation of the disputed land. He further submitted that land is unirrigated in which all the time cultivation is not possible. In spite of that, both the courts below have committed grave mistake in cancelling the allotment of the disputed land.

5. Per contra, learned counsel for the State, Mr. S.P. Ojha has contended that appellants have not submitted any khasra girdawari or any relevant revenue record in their favour by which it can be inferred that appellants are in regular cultivatory possession of the land. Contrary to it, documents produced by State reveal that land is lying vacant & appellants are not in cultivatory possession of land.

6. I have given thoughtful consideration to the rival contentions and scanned the matter cautiously.

7. This fact is not in dispute that section 14(4) of "the Rules of 1970" empowers the Collector to cancel any allotment either suo-motu or on the application of any person, in case the allotment has been secured through fraud or misrepresentation or has been made against rules, or in case the allottee has committed breach of any of the conditions of allotment.

8. Though, the application submitted by Naib Tehsildar under section 14(4) of the relevant allotment rules is wholly based on the ground that appellants have not cultivated at least 50% of the land in the first year of allotment and the remaining area in the second year; but simultaneously this fact cannot be ignored that condition to cultivate at least 50 % of the land in the first year of allotment and the remaining area in the second year has been omitted in the year 1999 and substituted by the following provisions as envisaged in section 14(3) of "the Rules of 1970" :

> "The allottee shall have to bring the land under cultivation and shall utilise it properly.
> Provided that this period may be extended by the Tehsildar by one year if, due to unforeseen causes over which the allottee had no control, he was unable to cultivate the land within the stipulated period."

9. Hence the ground taken by Naib Tehsildar that 50% of the land was not cultivated in the first year is not tenable and on this sole ground, allotment cannot be quashed. But in the present case, appellants have not submitted any cogent evidence by which it can be inferred that they have made the land under cultivation and since allotment they are utilizing the land properly. On the contrary, khasra girdawari of Samvat 2045 submitted by the State reveals that land is lying as 'Parat' land; more so, as per the concurrent findings of the courts below, the land is being utilised as play ground of a school for public purpose.

10. It is also apparent that appellants have not made any application for extension of the period before the Tehsildar when they were unable to cultivate the land due to unforeseen causes as pleaded by the counsel for the appellants. Therefore, the appellants have not complied with the conditions of the allotment as enumerated in section 14(3) of "the Rules of 1970".

11. As circumstances discussed aforesaid, I do not find any justified ground in interfering with the concurrent judgments of both the lower courts. Consequently, this second appeal deserves to be dismissed, therefore dismissed accordingly.

Pronounced in open court.

(**PRAMIL KUMAR MATHUR**)
Member