

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

1. Revision/TA/4729/2010/KOTA

Shri Gopal son of Shri Gangaram by caste Mehar resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

2. Revision/TA/4730/2010/KOTA

Shri Panna son of Shri Bherulal by caste Dhakar resident of Village Sobhagpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

3. Revision/TA/4731/2010/KOTA

Shri Bhagirath son of Shri Bhawana by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala

5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

4. Revision/TA/4732/2010/KOTA

Shri Chhotulal son of Shri Kanaram by caste Mehar resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

5. Revision/TA/4733/2010/KOTA

Shri Sitaram son of Shri Madho by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

6. Revision/TA/4734/2010/KOTA

Shri Shankar son of Shri Heera by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram

3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

7. Revision/TA/4735/2010/KOTA

Shri Banshi Lal son of Shri Kanha by caste Mehar resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

8. Revision/TA/4736/2010/KOTA

Shri Shankar Lal son of Shri Sriram by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

9. Revision/TA/4737/2010/KOTA

Shri Jagannath son of Shri Gangaram by caste Mehar resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan

2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

10. Revision/TA/4738/2010/KOTA

Smt. Hussain Bano wife of Hazi Wali Mohd. by caste Muslim resident of Village Khatoli Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

11. Revision/TA/4739/2010/KOTA

Shri Surajmal son of Shri Gopilal by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

12. Revision/TA/4740/2010/KOTA

Shri Ram Kunwar son of Shri Prabhulal by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

13. Revision/TA/4741/2010/KOTA

Shri Ganeshram son of Shri Bishna by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioner

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

14. Revision/TA/4742/2010/KOTA

1. Shri Gopal
2. Shri Jagannath
3. Shri Bihari Lal
- sons of Late Shri Gangaram by caste Mehar resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioners

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

15. Revision/TA/4743/2010/KOTA

1. Shri Mangilal
2. Shri Phoolchand
3. Shri Ramesh Chand

- sons of Late Shri Jagannath by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioners

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.

8. The State of Rajasthan through Tehsildar, Pipalda

...Non-petitioners

16. Revision/TA/4744/2010/KOTA

1. Smt. Prem Bai wife of Late Shri Gangadhar
 2. Shri Mukesh
 3. Shri Praveen -
 4. Shri Manju
- sons of Late Shri Gangadhar by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioners

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala
5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.

8. The State of Rajasthan through Tehsildar, Pipalda

...Non-petitioners

17. Revision/TA/4745/2010/KOTA

1. Smt. Gulab Bai wife of Late Shri Nenu Ram
 2. Shri Siyaram
 3. Shri Rampal
- sons of Late Shri Nenuram by caste Bairwa resident of Village Jawaharpura Tehsil Pipalda District Kota.

... Petitioners

Versus

1. Smt. Dakha Bai widow of Shri Ram Narayan
2. Smt. Suraj Kala widow of Shri Sita Ram
3. Shri Lokesh
4. Shri Nitesh - sons of Shri Sitaram through his mother Smt. Suraj Kala

5. Ms. Kavita
6. Ms. Sonu daughters of Shri Sitaram through his mother Smt. Suraj Kala
7. Shri Radhey Shyam son of Shri Ram Narayan by caste Meena
` residents of Village Jawaharpura Tehsil Pipalda District Kota.
8. The State of Rajasthan through Tehsildar, Pipalda
...Non-petitioners

S.B.
Shri Bajrang Lal Sharma, Member

Present:-

1. Shri I.S. Malik, Counsel for the petitioners
2. Shri Mukesh Jain, Counsel for the non-petitioners.
3. Shri Hagami Lal Chaudhary, Dy. Govt. Advocate for the State.

ORDER

Dated :15. 06. 2012

The 17 revision petitions mentioned hereinabove have been filed by the petitioners under Section 230 of the Rajasthan Tenancy Act, 1955 (hereinafter referred as 'the Act') being aggrieved by the judgment passed by the Revenue Appellate Authority, Kota on 09.07.2010 in appeals filed by the petitioners/appellants. The petitioners are the allottees of the ceiling acquired land and these revision petitions have arisen out of the restitution proceedings initiated by the non petitioners consequent to a High Court order passed in their favour. The facts and legal issues involved in these revision petitions are similar; therefore, these petitions are being disposed of by a common judgment. The copy of the judgment may be kept on each file.

Factual Matrix

2. The factual matrix of these petitions is this that under the provisions of Chapter III-B of the Rajasthan Tenancy Act, 1955 Shri Jagannath Meena (non-petitioners are his successors) filed his declaration under Rule 9 of the Rajasthan Tenancy (Fixation of Ceiling on land) Government Rules, 1963 in the office of Sub-Divisional Officer, Kota on 30.9.1966. The Sub-Divisional Officer, Kota decided the ceiling case of Shri Jagannath on 16.5.1975 and declared 76.78 Standard Acres of land as surplus. Being dissatisfied by the order of the trial court Shri Jagannath, the assessee, filed an appeal before the Revenue Appellate Authority, Kota who accepted the appeal on 23.10.1975 and remanded the case to the Sub

Divisional Officer, Kota who after rehearing of the case maintained his earlier judgment and ordered the acquisition of 76.78 Standard Acres of land on 23.4.1976. Shri Jagannath filed the first appeal before the Revenue Appellate Authority, Kota assailing the judgment dated 23.4.1976 passed by the trial court. The appellate court dismissed the first appeal on 0.09.1976. Shri Jagannath, the assessee and his son challenged the judgment of the Revenue Appellate Authority in Revision petition before the Board of Revenue which was dismissed on 14.5.1979. Thereafter the assessee and his son filed special appeal before the Division Bench of the Board of Revenue which was also dismissed on 03.09.1979. Being aggrieved by the judgment dated 03.09.1979 and 14.5.1979 the assessee and his son Ram Naraian filed a D.B.Writ petition in Rajasthan High Court (No.1713/1980) which was allowed on 03.01.1991 and the case was remanded to the Board of Revenue mainly to decide the issue of ancestral property pertaining to disputed land. The Board reheard the case and after analyzing the evidence adduced by the parties, declared only 47.84 Standard Acres of land as surplus. On 30.1.1992 the non-petitioners filed joint review application on being dissatisfied by the judgment of the Board dated 30.1.1992 and the judgment of the Board dated 27.12.1980 (under new ceiling Act of 1973). The Board of Revenue dismissed the review petition on 6.12.1995. Being aggrieved by the judgment of the Board dated 6.12.1995 and 30.1.1992 the non-petitioners filed a writ petition under article 226 of the Constitution (S.B.C.W.B.No.545/96) which was accepted on 17.2.2006 and consequently ceiling proceedings against the non-petitioners were dropped. The non-petitioners filed the restitution application under Section 144 of the Civil Procedure Code before the Sub Divisional Officer, Kota who accepted the application and ordered the petitioners to hand over possession of the land allotted to them on 30.4.2010. The petitioners are allottees of the ceiling acquired land and being aggrieved by the order of the trial court filed appeals before the Revenue Appellate Authority, Kota who dismissed their appeals on 9.7.2010. The petitioners have filed these revision petitions before this court assailing the judgments passed by both the lower courts on application filed by the non-petitioners under Section 144 of the Civil Procedure Code.

3. Heard the learned counsels of the parties.

4. The learned advocate for the petitioners contended that the authorized officer declared 76.78 Standard Acres of land as surplus land on 23.4.1976 in the tenancy of late Shri Jagannath who is ancestor to the non-petitioners and consequent to this judgment 202.18 bighas of land was acquired and mutation no.136 to that effect was sanctioned and the acquired land was entered as Government land in revenue records on 06.05.1976. As the land was entered as unoccupied Government land, the Sub Divisional Officer was under legal obligation to allot this land under the provisions of the ceiling law. The petitioners along with others (total 29 persons) were the landless persons of scheduled caste and the Backward Class and therefore allotted the ceiling surplus land on 26.5.1976 as there was no stay on allotment of the acquired land. He further submitted that the petitioners have deposited the premium on the allotted land and have been conferred khatedari rights. He argued that some of the petitioners have mortgaged the allotted land to the commercial Banks and some of them have even sold the land. He vehemently contended that the petitioners are having uninterrupted possession on the allotted land for more than last 30 years and without giving them an opportunity of being heard both the lower courts have ordered to eject the petitioners and to hand over possession to the non-petitioners. He termed the judgments of the lower courts as arbitrary, capricious, illegal and against the basic principles of natural justice. He also argued that a writ petition no.6042/94 before the Hon'ble High Court is still pending between the allottees and the successors of the late assessee Shri Jagannath. The learned advocate urged that in this case after about 35 years, the restitution was not legally possible as some of the acquired land has been used in construction of Road, Canal etc. and the allottees or their successors have developed the allotted land by putting the precious money, time and hard work. Therefore it will be a travesty of justice if the lawful allottees are summarily ejected from their khatedari land without being heard. He also contended that both the lower courts have relied on the larger bench decision of this court which was delivered in

the year 1990 whereas the facts and circumstances of this case are different and the Hon'ble Supreme Court has over these years given a new perspective on the doctrine of restitution. He finally urged the court to quash the impugned orders of the lower courts. He referred 1994 RRD 161; AIR 1983 Sikkim 01; AIR 1969 SC 316; AIR 2012 (3) SC 522; SCC 2003 (8) 648 and AIR 1996 (7) SC 668 in support of his arguments.

5. The learned counsel appearing for the non petitioners contended that the judgments passed by both the lower courts are well within the imperative duty cast on the courts under the doctrine of restitution. He argued that the allotted land was acquired by the authorized officer under the ceiling proceedings drawn against Late Shri Jagannath and finally the ceiling proceedings have been quashed by the Hon'ble High Court in SBCWP no. 545/96 decided on 17.2.2006. He further submitted that as soon the ceiling proceedings initiated against Shri Jagannath were declared erroneous and illegal, the right of restitution of the non-petitioner became alive and the trial court justly gave legal effect to it. He also submitted that the ceiling proceedings were between the State and the assessee. Therefore in the restitution proceedings, the allottees were not a necessary party and they are not at all required to be heard. He strongly relied on the Larger Bench decision of the Board of Revenue cited in 1990 RRD 355. He further argued that since the ceiling proceedings against the assessee have been quashed, therefore, the acquisition of the ceiling surplus land and allotment of this land to the further allottees, have become illegal and void. Such allotments have no legal force and have become in fructuous. He finally urged the court that restitution of the acquired land was an obligatory action of the courts and it was the only legal option available to the courts, therefore the revision petitions in hand are frivolous and misconceived.

6. The learned counsel for the State contended that since the ceiling proceedings have been dropped against the non petitioners by the Hon'ble high court, the non petitioners had a legal right to restitute. The courts were under obligation to restore the position prior to the ceiling proceedings. He further submitted that at the same time, the petitioners are also bonafide allottees and their allotment is legal and is in pursuance of the rules. Therefore, it is inhuman to eject them summarily from the

allotted land. He also argued that the allotment has been done after adopting the procedure given in the rules and the allotment is still intact and the interests of non petitioners need due consideration. The learned Govt. advocate urged the court that since the bonafide allottees had no knowledge of the ceiling proceedings and there was no stay order of any appellate court at the time of allotment, in these circumstances the restitution causes greater suffering to the petitioners. The learned counsel urged the court to decide the cases on merits.

7. I have given serious consideration to the contentions made by the learned counsels of the parties. I have also carefully examined the available record, studied the applicable law and relevant case laws referred to by the learned counsels.

Scope of the Order of the Hon'ble High Court

8. This is an accepted fact that these restitution proceedings have been initiated by the non-petitioners (successors of Late assessee Shri Jagannath) consequent to Hon'ble High Court's judgment dated 17.2.2006 in S.B.C.W.P. in 545/96. The operative para of the judgment dated 17.2.2006 is as under :

Having considered the rival submission of the respective parties and principles of Hindu Law (Mullah) as well as the judgment referred by Hon'ble the Supreme Court in 1969 SC 1330, I am of the firm opinion that the Board of Revenue has committed wrong to hold that the wife of the respondent no.4 is having share whereas as per the law, the wife during lifetime of her husband cannot have right over the ancestral property.

Consequently, in view of the ratio decided by Hon'ble the Supreme Court, this writ petition stands allowed. The judgment passed by the Board of Revenue in special appeal as well as review petition are herewith quashed and set aside.

9. This court has carefully read the writ petition filed by the non-petitioners in the Hon'ble High Court in the year 1996. In this writ petition there is no averment before the Hon'ble High Court pertaining to the present status of the acquired land. The non-petitioners, perhaps as a part of the strategy, did conceal this fact that the acquired land i.e. 202.18 bighas has been allotted on 29.5.1976 and some part of the acquired land has been used in construction of road and canal, and put to community use. This was a deliberate concealment of material fact which ought to have been brought before the Hon'ble bench who finally adjudicated the case.

9. While the Hon'ble High Court has categorically quashed the acquisition proceedings initiated by the state against the non-petitioners, the High Court order does not in any way hold the restitution of the disputed land as the *only available measure* to alleviate the suffering of the non-petitioners. Restitution, no doubt, in such circumstances is an important course open to the court, the fact that the disputed land has been allotted under the Land Ceiling Act to 29 allottees has complicated the *lis* in the present case. Post acquisition land distribution proceedings in favour of the petitioners have made the issue of desirability of restitution debatable before this court. At this juncture, the court will have to grapple with the hard reality of present tenure of land which, strangely enough, has not been taken into serious consideration by the lower courts. To this extent, while deciding this matter, this court will address the full complexity of facts, multiple stakes involved and competing equities and claims of all the concerned parties.

Law on Restitution:

11. Under the civil procedure code, the legal provisions for restitution have been provided. Section 144 of the code provides the following provision:

Section 144. Application for Restitution: (1) Where and in so far as a decree or an order is varied or reversed in an appeal, revision or other proceeding or is set aside or modified in any suit instituted for the

purpose, the court which passed the decree or order shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made will, so far as may be, place the parties in the position which they would have occupied but for such decree or order or such part thereof as has been varied, reversed, set aside or modified; and, for this purpose, the court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits which are properly consequential on such variation, reversal, setting aside or modification of the decree or order.

(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub section (1).

The bare perusal of the above provision unequivocally manifests that the court will, as far as possible, place the parties in the position they were prior to that suit or decree. In the case in hand, the acquired land is not lying with the state at the time of restitution but the state disposed it of by way of allotment in the year 1976 under the provisions of law. The Hon'ble Apex Court in *Binayak Swain V. Ramesh Chandra Panigrahi* (AIR 1966 SC 948) has categorically held that the court in making the restitution is bound to restore the parties. **So far as they can be restored**, to the same position they were in at the time when the court by its erroneous action has displaced them from. This line of decisions recognizes the implicit difficulties in specific restitution of the disputed property to the restitution claimant. Superior courts in numerous decisions have cautioned against mechanical application of the doctrine of restitution.

12. This is a well known fact that the fixation of ceiling on agricultural holdings was a land reform measure and was promulgated as a national policy of the country after our independence. Land being the state subject under the three lists of the Constitution, the State Government firstly, legislated the ceiling law under Chapter III-B of the Rajasthan Tenancy Act, 1955 (The old Ceiling Law) and subsequently a separate law titled "The Rajasthan Imposition of Ceiling on Agricultural Holdings Act", 1973 was enacted. In present case *Shri Jagannath Meena*, the

late assessee, was assessed under the provisions of old ceiling law as well as under new ceiling Act. Under both the laws the surplus land held by him was assessed to some 77 Standard Acres only. Initially the authorized officer on 16.5.1975 declared 76.78 Standard Acres of land as surplus land with the assessee and consequent to this judgment 202 bighas & 18 biswas of land from the tenancy of late Shri Jagannath was acquired and entered as Government land in revenue record. As there was no stay order from any competent appellate court, the land was allotted by the Sub Divisional Officer, Kota to the petitioners on 29.5.1976 and possession of the allotted land was given to them. Since 29.5.1976 the petitioners are in continuous possession and have been conferred khatedari rights in some cases.

13. There are two significant aspects of this case. One is related to the acquisition of ceiling surplus land under the ceiling Act against the deceased assessee. The other aspect is allotment of acquired land to the landless persons under rules framed under the ceiling Act. Though the distribution of ceiling surplus land in form of systematic allotment is a second step after the acquisition of ceiling surplus land, yet it is entirely an independent quasi judicial proceeding which is open to judicial scrutiny as provided in the rules. The State acquires the land through its authorized officers and distributes the land to the landless people as a policy on land reforms. Since the distribution of ceiling acquired land is done to the landless families for their livelihood, the case of restitution after 30 years becomes complicated and is certainly different from the cases pertaining to the urban properties or compensating the winning party in monetary terms.

Applicability Of the Yashwant Singh Case:

14. The learned advocate for the non-petitioners have heavily relied on the Hon'ble Larger bench judgment of this court passed in Yashwant Singh Vs. State of Rajasthan case cited in 1990 RRD 355. The inferences of the Hon'ble Larger Bench in this case are as under :

In view of the above observations, findings and conclusions, the question of law arising from this case are answered as follows :-

- 1) In a ceiling case where a decree for the acquisition of surplus land stands executed and land also allotted to the third party i.e. the landless persons during the pendency of an appeal against it and decree so executed is set aside on appeal, the surplus land acquired & allotted to the third party would be restored back to the original landholder under Section 144 of Civil Procedure Code.**
- 2) The allottees would not be the necessary party in the case of restitution under Section 144 of the Civil Procedure Code.**
- 3) The petitioner is not bound to make the allottee a party. If any allottee comes forward and applies under Order 22 rule 10 Civil Procedure Code for making him a party, that application would be decided on merits.**

15. The lower courts have relied on the Larger Bench decision and in light of the conclusions drawn by the Hon'ble Larger Bench the case of restitution has been disposed of by the trial court as well as by the appellate court.

16. This court has carefully studied the judgment passed by the Larger Bench of this court in Yashwant Singh case (1990 RRD 355). The facts and circumstances of the larger bench case are in variance with the instant case. There were certain legal points arising in restitution matters which were not argued, considered and decided by the larger bench. It was a consistent view of the superior courts that the interest of auction purchaser will be protected then why such court protection could not be extended to the bonafide allottees of the ceiling acquired land? In this case the petitioner allottees have been cultivating the allotted land for more than 30 years whereas in the Yaswant singh case the restitution was applied just after 4-5 years of the acquisition. There was no mortgage or sale of the allotted land. No road or canal was constructed on the ceiling acquired land. More significantly, the law evolved over these years by the Hon'ble Apex court in numerous

pronouncements convincingly suggest considering the other compelling aspects of equity in the case while applying the doctrine of restitution. Therefore, in the circumstances mentioned hereinabove, with all humility and respect, I beg to diverge on the legal inferences made by the Hon'ble larger bench of this court. The instant case varies in peculiarity of its circumstances and the judgments passed in P .Ruamini Amma case (1996(7) SCC 668), South Eastern Coalfields case (2003 (8) SCC 648), Gammon India Ltd Vs M S Reddy & Co and Anrs.(2004 (13) SCC 359) and Essar oil case (2012 (3) SCC 522) by the Hon'ble Apex court do exhibit insight for solving the legal impasse created during the acquisition of ceiling surplus land under the ceiling proceedings and allotment of the ceiling acquired land to the petitioners in the case in hand.

17. The period of 30 years is a generation era which can be comprehended in this way that when the land was allotted, the allottee was a young man of hardly 30 years and now either he is dead or he is too old to understand the imperatives of the restitution law. In last 30 years the allottees have developed the land and slogged on it. Their planted saplings have grown up as big trees and started giving shade and fruits. The allotted land is now has assured irrigation of canal and their family size have gone bigger. On some part of the acquired land road and canal has been constructed. The land has been mortgaged/sold in some cases in the process of redeeming family responsibilities or developing the allotted land.

18. This is equally true for the non-petitioners that they were kept at bay from the land owned by their forefathers by the courts. This court is aware and quite sensitive to the injustice and harassment caused to the family of the late assessee owing to the errors of the courts. They have certainly suffered in this long legal battle against the state. But if we look into the present state of the petitioners, this court finds that if in literal term, the restitution is allowed, it will be greater injustice caused to the families of the allottees who have pinned their all hopes on the allotted land which is the only source of their livelihood and life. This is also pertinent to mention here that it was the allotting authority who allotted this ceiling surplus land to the petitioners, who were landless at that time, under the rules. This fact is also undisputed that they were not

party in the ceiling proceedings at any stage and they, being illiterate, had no knowledge about the ceiling litigation which was the source of acquisition of the disputed land. They are stranger allottees who did not conceal any material fact from the allotting authority. Their allotment till date is intact and in force and has not yet been cancelled or annulled by any competent court. There is no condition in the allotment order that if the ceiling proceedings are quashed by the court of competent jurisdiction, the allotment will be rendered in fructuous. The ceiling law or the rules made there under are also silent on such an impasse.

The doctrine of legitimate expectation

19 The doctrine of legitimate expectation has been accepted as a vital part of our jurisprudence and under this doctrine a person can have a legitimate expectation of assured fair play from the statutory authorities. In this instant case the petitioners are beneficiaries of a public policy under the land reform law of the state and their allotment is intact as on today but in a restitution proceeding they have been ordered to hand over possession of the allotted land even without giving an opportunity of being heard.

In *Union of India v. Hindustan Development Corporation*, (1993 1 SCC 499) the Hon'ble Supreme Court observed on the doctrine of legitimate expectation in the following manner:

For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The legitimacy of an expectation can be

inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again it is distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.

20 In *Sethi Auto Service Station V. D D A* (2009 1 SCC 180) Hon'ble Apex court while referring to various precedents has held:

...the golden thread running through all these decisions is that a case for applicability of the doctrine of legitimate expectation, now accepted in the subjective sense as part of our legal jurisprudence, arises when an administrative body by reason of a representation or by past practice or conduct aroused an expectation which it would be within its powers to fulfill unless some overriding public interest comes in the way. However, a person who bases his claim on the doctrine of legitimate expectation, in the first instance, has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary, unreasonable or in gross abuse of power or in violation of principles of natural justice and not taken in public interest. But a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles.

21. This court is of the view, that more than 30 years of uninterrupted enjoyment of land arising out of perfectly legal distribution proceedings under the Land Ceiling Act have given a rise to a strong legitimate expectation claim in favour of the petitioners. The legitimacy of expectation to continue on the piece of land allotted to the petitioners is more than fulfilled for the simple reason that the allotment proceedings have not at all been faulted by any court so far.

22. It is important to note, at this juncture, that the petitioners in this case were allotted land under the provisions of the Land Ceiling Act. This Act forms part of the historic land reforms movement. After independence, state enacted land reform laws reflecting the foundational commitment to the welfare of the *have-nots* in conformity with the constitutional vision. The importance of land reform laws to the governance scheme of state can be gauged by the fact that the State sought to immunize these laws from the vagaries of judicial review by bringing them under Article 31 A. The idea behind putting these laws in Schedule IX was to ensure sustained progress in the task of national policy on land reforms.

23. The petitioners, as forlorn and lost in their provenance chose to avail the benefits from the land reform laws. They had resolute faith in the state and were in search of means of livelihood. Land provided to these 29 families proved to be a new lease of sustenance. Against this background, this court feels that nothing can be more solemn than a claim which accrues in favour of the landless allottees under the Land Ceiling Act. State in discharge of its *parens patriae* (mai -baap) role, through a full fledged statutory framework rooted under Article 31 A of the Constitution of India, proceeded to lawfully draw land in favour of the petitioners. This constitutionally sanctioned statutory grant of land, unless the precise distribution proceedings are hit by illegality or malafide, must be presumed to be secure.

Two Independent Processes:

24. It is also to be noted that the acquisition proceedings and redistribution proceedings under the Land Ceiling Act are disjoint processes. They are independent of each other and questioning of one proceeding does not automatically cast a shadow on the other. In fact, under section 16 with respect to acquisition proceedings, and section 21 in relation to redistribution proceedings, separate and independent grounds are available to assail the proceedings. Therefore, just because the acquisition proceedings are quashed, allotment proceedings and the legal fiction which is created thereby do not vanish in thin air on its own.

Case of Competing Equities:

25. This case vividly showcases how devices of law can bring havoc in the lives of innocent people when the subject-matter relates to land which is so basic to human existence. It also shows how delayed and circuitous ways of courts, rather than mitigating such disasters created through mechanisms of law; carry within them the seed of further aggravating the problems. Can the remedy of restitution in its original role go so far as to cause unfairness and undue hardship to the bonafide allottees is the question before this court ?

26. After considering the relative merits of the cases of the petitioners and the original tenant, this court is also concerned with the task of suggesting justifiable application of the doctrine of restitution in such circumstances. In the instant case, the state was unjustly enriched by the erroneous acquisition proceeding against the Assessee. But as has been noted, the subject-matter of enrichment unfortunately got transferred to landless petitioners under statutory proceedings of allotment. This transfer of land was an outcome of lawful process as the state at that point had a valid claim over the land.

Restitution law : a historical perspective

27. In the matter of restitution, the privy council in the year 1888 observed in *Zain Ui Abdeen Khan vs. Mohd. Asgar Ali and Ors.* (1888 ILR(X) Allahabad 166) that the decree holder purchasers as well as persons who came in under them are in the same position and they would be categorized as decree holders as against the strangers to the decree. It was explicitly held by the privy council that the sales in favour of the bonafide buyers, who were not parties to the decree at a time when the decree was valid and in force will be protected. In another case of *Satish Chandra Vs. .Rameswari Dosi and Ors.* (AIR1975 Calcutta 363) The Calcutta High Court conformed with the judgment of Privy Council (1888) and held that the decree holders and those who claim under decree holders are a different class as against the strangers to the decree who purchase in a court auction sale. The court observed that it has tender regard for honest purchasers at sale held in execution of a decree,

though the sales may be subsequently set aside. The same view was reaffirmed in Abdul Rahman Vs Sarat Ali & Ors. (AIR 1916 Calcutta 710). Thereafter Patna High Court in case of Gopilal and Ann. Vs. Jamuna Pd. And Ors. (AIR 1954 Patna 36), the Madras High Court in S.Chokalingam Vs. N.S.Krisna Iyer and Ors. (AIR 1964 Madras 404) and the Kerala High Court in Parmeswaran Pillai and Ors. Vs. Chinna Lakshmi and Anr. had a different view and held that the court protection may be extended even to the lease executed in favour of the decree holder purchaser at the auction sale in execution of an ex-parte decree which was subsequently set aside. The Hon'ble Apex court in the year 1966 settled this view that the property purchased by the decree holder in auction held by the court in execution of an ex parte court decree will not be protected by the court because the decree holder had the knowledge of the case. The court decided that the judgment debtor was entitled for restitution on the sole ground that the decree holder not being a stranger. The Hon'ble Apex court reversed the views held by Patna, Calcutta, Madras and Orissa High Courts (AIR 1962 Orissa 11).

28. In the case of P.R. Amma Vs. P.K.Abdulla (1996 (7) SCC 668) the Hon'ble Apex court has observed that there is a distinction between a sale to a decree holder and a sale to a stranger. And the court as a matter of policy will protect the honest outside purchasers at sales held in the execution of its decree. The relevant excerpts are as under :-

It is equally well settled that if at a court auction sale in execution of a decree, the properties are purchased by a bonafide purchaser who is a stranger to the court proceedings, the sale in his favour is protected and he can not be asked to restitute the property to the judgment-debtor if the decree is set aside. The ratio behind this injunction between a sale to a decree-holder and a sale to a stranger is that the court, as a matter of policy, will protect honest outside purchasers at sales held in the execution of its decrees, although the sales may be subsequently set aside, when such purchasers are not parties to the suit.

Position of bonafide allottees viz a viz auction purchaser:

29. A consistent view has been taken by the courts, from the times of Privy council to the present times, that as a policy the courts protected the interests of the auction purchaser in a sale held by the court. In considered view of this court the bonafide allottees and the stranger auction purchaser are on the equal footing. The bonafide allottees, like Auction purchaser, are to be afforded protection of the law otherwise the institution of land reform will lose its meaning. Like court auction proceedings, the land redistribution proceedings are also quasi-judicial in nature. Moreover, while court auction, as the name suggests, is court mediated, the redistribution proceedings are also state mediated. Bonafide allottees are also complete strangers and innocent to the lis concerning the dispute. They had no notice whatsoever of the pending litigation over the land. They were not made parties at any stage. In fact, even the Hon'ble High Court was not aware of this fact

Recent Views of the Apex Court on Restitution:

30. In matter of South Eastern Coalfields(2003 (8)SCC 648) the Hon'ble Apex court has further hold that the restitution should meet the ends of justice not defeat the same. The relevant excerpts are as under :

..... **The successful party can demand (a) the delivery of benefit earned by the opposite party under the interim order of the court, or (b) to make restitution for what it has lost; and it is the duty of the court to do so unless it feels that in the facts and on the circumstances of the case, the restitution far from meeting the ends of justice, would rather defeat the same.** Undoing the effect of an interim order by restoring to principles of restitution is an obligation of **the party who has gained by the interim order of the court, so as to wipe out the effect of the interim order passed which, in view of the reasoning adopted by the court at the stage of final decision, the court earlier would not or ought not to have passed.** There is nothing wrong in an effort being made to restore the

parties to the same position in which they would have been if the interim order would not have existed.

31. In another case of Gammon India Ltd Vs M S Reddy & Co and Anrs.(2004 (13) SCC 359) it has been held by the Hon'ble Supreme Court that restitution is applicable only if something had been done by virtue of an order or a decree of the court and not otherwise. The Court held as Under:

We also find that the observations made by the High Court suggest that a case is made out under section 144 of the Civil Procedure Code. Section 144 of the Civil Procedure Code will apply only if by the virtue of an order or of a decree of the court something was done. In this case, there was no injunction or stay against making payment. The 2nd respondent bank was bound to make payment as per the terms of the on demand guarantee and as per the settled law

32. The learned advocate for the non-petitioners have relied on the latest judgment of the apex court in State of Gujarat and others Vs. Essar Oil Limited and Another (2012 SCC (3) 522). Hon'ble Apex court has founded a new concept in the doctrine of restitution and held as under :

61. The concept of restitution is virtually a common law principle and it is a remedy against unjust enrichment or unjust benefit. The core of the concept lies in the conscience of the court which prevents a party from retaining money or some benefit derived from another which it has received by way of an erroneous decree of court. Such remedy in English Law is generally different from a remedy in contract or in tort and falls within a third category of common law remedy which is called quasi-contract or restitution.

62. If we analyse the concept of restitution one thing emerges clearly that the obligation to retribute lies on the person or the authority that has received unjust enrichment or unjust benefit (see Halsbury's Laws of England, 4th Edn. Vol.9 p.434).

63. If we look at *Restatement of the Law of Restitution* by American Law Institute (1937 American Law Institute Publishers, St. Paul) we get that a person is enriched if he has received a benefit and similarly a person is unjustly enriched if the retention of the benefit would be unjust. Now the question is what constitutes a benefit. A person confers benefit upon another if he gives to the other possession of or some other interest in money, land, chattels, or performs services beneficial to or at the request of the other satisfies a debt or a duty of the other or in a way adds to the other's security of advantage. He confers a benefit not only where he adds to the property of another but also where he saves the other from expense or loss. Thus the word "benefit" therefore denotes any form of advantage (p.12 of the *Restatement of the Law of Restitution* by American Law Institute).

64. Ordinarily in cases of restitution if there is a benefit to one, there is a corresponding loss to other and in such cases, the benefiting party is also under a duty to give to the losing party, the amount by which he has been enriched.

65. We find that a person who has conferred a benefit upon another in compliance with a judgment or whose property has been taken thereunder, is entitled to restitution if the judgment is reversed or set aside, unless restitution would be inequitable (p.302 of the *Restatement of the Law of Restitution* by American Law Institute).

66. Equity demands that if one party has not been unjustly enriched, no order of recovery can be made against that party. Other situation would be when a party acquires benefits lawfully, which are not conferred by the party claiming restitution, court cannot order restitution.

33. In light of the observations made in para 66 of the above referred supreme court judgment it can be inferred in the instant case that the petitioner allottees have not been unjustly enriched because they have been allotted land by the allotment authority under the rules and the allotment stands intact even

today. Therefore, it will be unjust to order recovery of possession against them. In my considered opinion the petitioners acquired the benefit of allotment lawfully and this benefit, in no case, was conferred by the winning party.

34. If we carefully consider the facts of this case, the petitioner allottees are in the category of stranger auction purchasers in execution of a court decree. The bonafide auction purchaser other than the decree holder has no knowledge of the status of the court decree (may be ex parte or contested) and since the times of privy councils to the latest pronouncements of the Hon'ble Apex court, as a policy of the court, interest of the such stranger auction purchaser has been protected. In the instant case the petitioner allottees are illiterate landless persons of the local village who had no knowledge of the acquisition of ceiling land and especially the legal nuances involved. The Sub Divisional Officer issued a notification inviting applications from the landless persons for allotment of Govt. land (Ceiling surplus land), since they were eligible as per the rules, they were allotted the ceiling acquired land and paid the premium. Their innocence and economic status can be adjudged by this very fact that many of them could not yet deposit even the nominal premium amount due against the land allotted.

35. In the instant case, if the restitution is allowed, it will be inequitable and will not meet the ends of justice. Since the petitioners were aliens to the ceiling proceedings and they are not the trespassers but on the contrary a competent quasi judicial authority which functions as a court has allotted the land to them on a premium and the allotment has not been annulled by any competent court. Therefore the allotments of such stranger allottees made by the court itself will be protected. In my considered opinion their allotment is fully protected in light of the apex court judgment in P R Amma case(1996 (7) SCC 668) because their case is similar to that of stranger purchaser who bought the property in court auction in execution of a court decree which was subsequently set aside in appeal.

36. In the instant case the time lag is very vital decisive factor for restitution. The allotment in favour of the petitioners is more than thirty years old. Some part of the land has been used in construction of road and canal and the rest is in uninterrupted cultivation and tenancy of the petitioners. The Hon'ble apex court has observed in South Eastern

Coalfields Ltd Case (2003(8) SCC 648) that when the litigation has lasted for a long period of time. Multiple commercial transactions have taken place and much time has been lost in between. The commercial rates of interest (including the bank interest) have undergone substantial variations and for quite sometime the bank rate has been below 12%. The High Court, has therefore, rightly (and reasonably) opined that upholding entitlement to the payment of interest @ 24% p.a. would be excessive and it would meet the ends of justice.

37. The Hon'ble Apex court has also observed that it is inherent jurisdiction of the court to act rightly and fairly towards all parties involved in the restitution case. In considered opinion of this court, looking to the circumstances of the case, the courts below did not act fairly towards all parties involved but they just ordered restoration of the ceiling acquired land in favour of the non petitioners. The courts have acted arbitrarily against the interests of the petitioners and the state, who under its public policy, allotted them land, witnessed the impugned proceedings as a silent spectator. In this case the responsibility of restitution primarily lies with the state. The state chose not to assail the Hon'ble high court's judgment dropping the ceiling proceedings against the assessee and nor it took any initiative for restituting the assessee consequent to the High court Judgment. Since the state spearheaded the policy of land reforms and the non petitioners were allotted land by the state under the rules. The entire responsibility for restitution lies on the state as the land which is the subject matter of restitution has been used/ distributed as per the guidelines of the state and more specifically when the land is not readily available for restoration to the assessee. This court is of the opinion that the claim of restitution filed by the non petitioners is valid one but there are difficulties in restoring the original land to the non petitioners at this juncture. Therefore the other alternatives of restitution are to be considered in larger interest of justice.

38. In this case the petitioner allottees have been allotted land by the competent authority and the land was entered in their name. They

earned their livelihood from that piece of land and used it as a lifeline for their survival. In considered opinion of this court such case is starkly different than the case of restitution of urban property or a tax concession or payment of compensation or interest in monetary terms. This is a peculiar case where restitution of the same land becomes almost improbable. The banks that financed the allottees vouched for their name in the revenue record. They were strangers to the ceiling proceedings. The public works department and the water resources department constructed road and canal on the acquired land which consequently became Govt. land. The buyer who bought the allotted land is a bonafide buyer who bought the land after looking into the revenue record maintained in favour of the allottee/seller. In such a case summary ex-parte ejectment of the petitioners is illegal, capricious and against the basic principles of natural justice. Therefore, the impugned proceedings pertaining to the restitution are not legally sustainable.

39. The non-petitioners were not allowed to cultivate the ceiling acquired land for more than 30 years by the various orders of the courts. Now they have a court order in their favour. They had a case against the state of Rajasthan with regard to the ceiling proceedings drawn against them. They deliberately concealed the material fact before the Hon'ble High Court that the acquired land has already been allotted long back in the year 1976. There was no stay order either by any competent court. The State Govt opted for not challenging the judgment passed by the Hon'ble High court on 17. 02. 2006 which paved the way for the impugned restitution proceedings. In these circumstances this court is of the considered view that the State Govt. is under obligation to compensate the non-petitioners satisfactorily against the land acquired in the year 1976.

40. As discussed above, all the revision petitions are partly accepted and the impugned orders passed by the Sub divisional officer, Kota and Revenue Appellate Authority, Kota are set aside. This court holds that the acquired land has been used in construction of canal/ road and in allotment to the landless persons in the year 1976 and in the opinion of this court their claim for restitution is reasonable and justified but in the circumstances mentioned hereinabove, the same acquired land cannot be restituted in original form. Therefore, in such circumstances, the

matter of restituting the non petitioners is remanded to the Sub divisional Officer, Kota for examining their claim of restitution afresh in form of monetary compensation or allotment of alternative land in lieu of the land acquired under ceiling proceedings. Additional Registrar (judicial) is also directed to send a copy of this judgment to the principal secretary, Department of Revenue, Government of Rajasthan, Jaipur for taking a policy decision in such cases. The Additional Registrar is also directed to send a copy of the judgment to Collector, Kota in order to take up the matter with the state Govt. for its early and logical disposal.

41. Pronounced in open court.

(Bajrang Lal Sharma)
Member