

IN THE BOARD OF REVENUE FOR RAJASTHAN AJMER

Revision/LR/1090/2012/Alwar.

Alladin son of Subhan Khan caste Mev resident of village Kaimala
Tehsil & Distt. Alwar.

...Petitioner.

Versus

1. Rehman son of Chand Mal caste Mev
2. Dulla son of Chand Mal caste Mev
3. Subhan Khan son of Chand Mal caste Mev
4. Hajruddin son of Khillu caste Mev
5. Smt. Johri wife of Chhotli daughter of Chand Mal
All residents of village Khanpur Mevan Tehsil Kishangarhbas Distt.
Alwar.

...Non-petitioners.

**S.B. (Camp Jaipur)
Dr. G.K. Tiwari, Member**

Present:-

Shri Hari Prasad Jangid, counsel for the petitioner.

Date: 01.03.2012

J U D G M E N T

This revision petition, under section 84 of the Rajasthan Land Revenue Act 1956 (in short 'the Act'), is directed against the impugned judgment dated 20.12.2011 of Settlement Commissioner Jaipur passed in restoration application No. 9/10.

2. Brief facts of the case are that in a matter of appeal pending before Settlement Commissioner Jaipur, the appeal of the petitioner-appellant was dismissed in default and subsequently restored four times earlier before the present dismissal under consideration. On all the four occasions earlier, the dismissal order was revoked and the appeal was restored four times; but again the petitioner remained absent on the given date of hearing and the appeal was dismissed fifth time. On this fifth occasion of dismissal, Settlement Commissioner declined to accept the restoration application by the impugned judgment dated 20.12.2011, which is challenged in revision before this court.

3. I have heard the counsel for the petitioner.

4. The learned counsel for the petitioner contended that the appeal has been pending before Settlement Commissioner for long and this appeal should be decided on merits rather than be dismissed in default. The advocate for the petitioner could not reach on date of hearing of the

appeal as his scooter met with an accident; so in the interest of justice the impugned order should be set aside and the appeal should be restored for hearing on merits.

5. I have carefully gone through the impugned judgment dated 20.12.2011 of Settlement Commissioner and pondered over the submissions made by the learned counsel for the petitioner.

6. It is indisputable that the appeal under consideration was earlier dismissed in default on four occasions on 1.2.1997, 26.9.1997, 1.11.1997 and 9.1.2000. But Settlement Commissioner liberally condoned the default and restored the appeal four times. The last restoration which was fourth in the series of the restorations was allowed at the cost of Rs. 500/- by the order dated 9.1.2000. But unfazed and undeterred, the petitioner and his counsel again remained willfully absent for the fifth time on 29.3.2010 when the case came up for hearing. As such the court did not commit any mistake in dismissing fifth restoration application. I do not find any illegality or jurisdictional error in the impugned judgment declining the restoration application which was submitted fifth time. It is apparent that the petitioner is taking up the matter of appeal very lightly and carelessly and wants to drag on the case ad-infinitem. The chronic habit of remaining willfully absent on the date of hearing cannot be encouraged for all the times to come, particularly when the court has been so liberal in condoning the defaults and allowing the restoration applications four times earlier.

7. In view of the given facts and circumstances of the case, I do not find any jurisdictional error or material irregularity or illegality in the impugned judgment. Therefore, this revision petition deserves to be dismissed at the stage of admission.

8. As a result, the revision petition stands dismissed in limine.

Pronounced.

(Dr. G.K. Tiwari)
Member