

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER**1-Revision /LR/ 860/2012/Jaisalmer**

Ranjeet Singh s/o Jaswant Singh, Caste Rajput, r/o village
Ridmalsar Khariya, Tehsil Falaudi, District Jodhpur.

----- petitioner

Versus

State of Rajasthan through the Deputy Colonisation
Commissioner, Jaisalmer

----- Non-petitioner

2-Revision /LR/ 861/2012/Jaisalmer

Smt. Indrakanwar w/o Gulab Singh, Caste Rajput, r/o village
Ridmalsar Khariya, Tehsil Falaudi, District Jodhpur

----- petitioner

Versus

State of Rajasthan through the Deputy Colonisation
Commissioner, Jaisalmer

----- Non-petitioner

Single Bench

Shri Moolchand Meena, Member

Present:-

Shri N. K. Goyal, Advocate for the petitioners.

Shri Vijendra Chaudhary, Deputy Government Advocate.

Order

Dated: 01-05-2012

These two revisions under section 84 of the Rajasthan Land Revenue Act, 1956 have been filed by the petitioners against order dated 9th September, 2011 passed by the Colonisation Commissioner, Bikaner. Relevant facts, issue in controversy and impugned order in both the cases are identical; therefore this common order is being passed by this Court in both the revisions. Copies of this order may be placed in both the files.

2- Brief facts of the case leading to these revisions are that the petitioners submitted an application under rule 18 of the Rajasthan Colonisation (Allotment And Sale of Government Land in the Indira Gandhi Canal Colony Area) Rules, 1975 ('the Rules of 1975' in short) for allotment of land in question situated in Chak No. 1-SD comprising in Square No.108/08 measuring 24 Bighas 05 Biswas in case of revision No.860/2012 and in Square No. 108/16 measuring 24 Bighas 05 Biswas in case of revision No.860/2012. The petitioners also deposited 25% of the sale amount on 9th March 2011. The petitioners' applications were allowed by the Allotting Authority –cum-Deputy Colonisation Commissioner vide his order dated 9th March 2011 and the case was sent to the Colonisation Commissioner, Bikaner for confirmation. The Colonisation Commissioner, Bikaner vide his order dated 9th September, 2011 (impugned order) has cancelled the allotment on the ground that there is a cutting in application-cum-tender form. The present revision petitions have been filed against this impugned order dated 9th September, 2011 on the grounds that a minor clerical mistake and minor correction in the application form is not a valid ground for cancellation of allotment. It has also been argued that the Colonisation Commissioner, Bikaner has not provided any opportunity for hearing to the petitioners before cancelling the allotment in question. It has been prayed that revision petitions may be allowed and impugned order dated 9th September, 2011 passed by the Colonisation Commissioner, Bikaner may be set aside and allotment order dated 9th March 2011 of the Allotting Authority-cum- the Deputy Colonisation Commissioner may be upheld and confirmed.

3- Learned counsel for the petitioners and learned Deputy Government Advocate were heard.

4- The learned counsel for the petitioners, while repeating the facts and grounds mentioned in revision applications has argued that the allotment in question was made under sealed bid process under the Rules of 1975 and the petitioners' bids were the highest and only bids. Therefore, the Deputy Colonisation Commissioner as Allotting Authority had rightly allowed the petitioners' bid-

cum-applications and the matter was sent to the Colonisation Commissioner for confirmation. But the Colonisation Commissioner has cancelled the allotment on such a meritless ground of minor correction in the application form which is not a valid ground for cancellation of allotment. It has also been argued that the petitioners were not provided opportunity for hearing before the said cancellation which is against the natural justice. The learned counsel has also submitted that the disputed correction in the application form does not affect the merits of the case or eligibility of the petitioners for allotment.

4- The learned Deputy Government Advocate has contended that the revisions in hand have been filed after expiry of permissible time limit and the petitioners have not submitted any application for condonation of the delay. Revisions under section 84 of the Rajasthan Land Revenue Act, 1956 can only be considered on merits if they are within time limit or if, after accepting the petitioners' explanation for delay, the Court condones such delay. Since no explanation for the delay has been submitted by the petitioners, revisions in hand are not considerable on merits. With this solitary argument, the learned Deputy Government Advocate has requested that the revisions in hand may be disallowed and rejected as time barred.

5- This Court has given a thoughtful consideration to the rival contentions made by both the learned counsels for the parties and has gone through the record and the impugned order available in the file. The matter in hand pertains to the Rajasthan Colonisation Act, 1954 and the Rules of 1975. There is a provision under rule 23 (2) of the Rules of 1975 for filing a revision before the Board against a final order passed by the Colonisation Commissioner under those rules. Section 5 of the Colonisation Act, which provides for applicability of tenancy and revenue laws in colonisation matters, reads as under:-

*“5- **Applicability of tenancy and land revenue laws.-** (1) Except as otherwise provided in this Act, the laws relating to agricultural tenancies, land, the powers, duties, jurisdiction and procedure of revenue courts, the survey and record operations, the settlement and collection of revenue, rent and other demands and the partition of estates and tenancies, for*

the time being in force in a colony, shall, in so far as may be applicable, apply to tenancies held and to proceedings conducted under this Act.

(2) Nothing in such laws shall, however, be so construed as to vary or invalidate any rule made, or any condition entered in any statement of conditions issued, by the State Government under this Act.”

Thus it is evident from Section 5(1) of the Colonisation Act, that **the provisions of tenancy and revenue laws are applicable in Colonisation matters only if they are not inconsistent to the Colonisation laws and if there is no provision in Colonisation laws for such matters.** Meaning thereby is that, in the matters of revision against orders of the Colonisation Commissioner under the Rules of 1975, the provisions of rule 23(2) of the Rules of 1975 shall be applicable. Rule 23 the Rules 1975 is as under:-

“23. Appeal and Revision :- (1) *Any person aggrieved by an order passed by an Allotting Authority may within 30 days from the date of such order, appeal to the Colonisation Commissioner.*

(2) *Any person aggrieved by a final order of the Colonisation Commissioner whether passed in appeal or otherwise may within 60 days of the date of such order, file revision to the Board of Revenue for Rajasthan.”*

Mere perusal of the rule 23 (2) as above reveals that the prescribed time limit for filing a revision petition before the Board under rule 23(2) of the Rules of 1975 is 60 days. The impugned order in the present case was passed by the Colonisation Commissioner on 9th September 2011 and the revisions have been filed on 6th February 2012. Thus the revisions have been filed after 149 days from the date of the impugned order, which is 89 days delayed after expiry of prescribed period of 60 days.

6- It is a settled law that **any revision/appeal can be examined on merits only if it is within the time limit or if its delay has been explained by the petitioner/appellant to the satisfaction of the Court.** But in the present case, the petitioners have even not bothered to submit any explanation for filing the revisions after expiry of the prescribed period. This Court is of the view that **if the petitioner/appellant does not explain the reasons for delay and does not**

request for condonation of delay, the Court on its own cannot condone the delay and consider the revision/appeal on merits.

7- In view of the foregoing discussions, this is our considered opinion that the revisions in hand are time barred. Since limitation is a simple matter of calculation of days, nothing remains in the matter now, which can be examined from the records of the lower Court. Therefore it is not necessary to call for the said record.

8- After having concluded on the issue of limitation as above, this Court does not deem it proper to discuss on merits of the case. The revisions are liable to be rejected as time barred.

9- Consequently, both the revisions in hand are hereby rejected.

Pronounced in the open Court.

(Moolchand Meena)
Member