

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

Revision No.4093/2005/TA/Jhunjhunu :

Maliram S/o Shri Boduram, by caste Mali, R/o Berala Wala Kuan
Ki Dhani Tan Khetri, Tehsil Khetri , District Jhunjhunu.

... Petitioner.

Versus

1. Manju widow of Shri Gokal
2. Nanibai D/o Shri Gokal, minor through mother Smt. Manju
Both are by caste Mali, residents of Berala Wala Kuan
Ki Dhani Tan Khetri, Tehsil Khetri , District Jhunjhunu.
3. Mankori widow of Shri Seduram
4. Malaram
5. Banwari
6. Phularam
7. Mularam
8. Popraj
9. Gyarsilal
- No. 3 to 9 are by caste Mali, residents of Swami Wali Kuan
Ki Dhani Tan Khetri, Tehsil Khetri , District Jhunjhunu.
10. Palaram S/o Shri Baksaram, by caste Mali, R/o Kolihan Nagar
Ke Piche Wali Dhani Tan Khetri, Tehsil Khetri, District Jhunjhunu.
11. Banshi
12. Bhagwanaram
13. Chhoturam
- No. 11 to 13 are by caste Mali, residents of Swami Wali Kuan
Ki Dhani Tan Khetri, Tehsil Khetri , District Jhunjhunu.
14. Hanuman S/o Shri Gigaram
15. Maduram S/o Shri Gigaram
16. Balweer S/o Shri Sheolal Navira Gigaram
17. Girdhari S/o Shri Seduram
18. Bajranglal S/o Shri Sheopal Navira Gigaram
No.14 to 18 are by caste Mali, residents of Berala Wala Kuan
Ki Dhani Tan Khetri, Tehsil Khetri , District Jhunjhunu.
19. Shishram S/o Shri Durgaram, by caste Mali, R/o Dhani Kalala
Wali Tan Dhana, at present Advocate Courts, Khetri, Jhunjhunu.
20. State of Rajasthan
21. Sub Registrar (Tehsildar), Khetri, District Jhunjhunu.

... Non-petitioners.

S.B.

Shri Satish Chand Kaushik, Member

Present :

Shri Yogendra Singh : counsel for the petitioner.

Shri Rajesh Gautam : counsel for non-petitioners.

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Dated : 04.8.2016

J U D G M E N T

This revision petition has been preferred under section 230 of the Rajasthan Tenancy Act, 1955 (in short to be referred "the Act") against the order of learned Sub Divisional Officer, Khetri dated 03.6.2005 in Revenue suit No. 162/2004.

2. Briefly stated, the facts are that in this matter, a revenue suit was filed and registered as suit no. 115/96 which was decreed on 21.9.2001 by the learned Sub Divisional Officer, Khetri. Being aggrieved with the judgment dated 21.9.2001, an appeal was preferred before learned Revenue Appellate Authority, Sikar which was registered as appeal no. 12/2002. After hearing both the parties, the learned R.A.A., Sikar Camp : Jhunjhunu decided the appeal vide his judgment dated 28.5.2004 and thereby partially admitting the appeal, the judgment of the learned lower court was quashed and the matter was remanded back with the direction that in respect of Jamabandi of Svt. 2012 which was produced before the learned appellate court, the learned lower court should give proper opportunity to both the parties for evidence and thereafter pass afresh judgment on merit. The matter was remanded back to the learned lower court. During the course of hearing as on 17.11.2004, an amended title was filed from the side of plaintiffs and they have also filed 8 documents along with their affidavits for evidence and the matter was fixed for cross-examination thereof for 30.11.2004. However, the production of document was objected by the defendant-petitioner no.7 inter alia on the ground that the title cannot be amended because the matter was in appeal and in appeal the title has already been amended and as such the application moved for impleading the legal representatives is liable to be dismissed. And the other objection taken that the documents produced by the plaintiff have been taken on

record by the Hon'ble court on 17.11.2004 is against the law because it is against the orders of learned R.A.A. However, after hearing both the parties, on 03.6.2005, the learned lower court passed the following order :-

“बकुलाय फरीकेन उपस्थित। प्रतिवादी/प्रार्थी का प्रार्थना पत्र अस्वीकार किया जाता है क्योंकि मृतक प्रतिवादी सेडु के वारिसान अपीलिय न्यायालय में पूर्व में रेस्पोंडेन्ट संस्थापित हो चुके हैं। अतः संशोधित टाइटल स्वीकार किया जाता है। संशोधित टाइटल में संस्थापित प्रतिवादीगण की तलबी पूर्व में हो चुकी है और वादिया ने अपनी साक्ष्य शपथ पत्र द्वारा पेश कर दी है। अतः वादिया आयन्दा 23.6.2005 को वास्ते जिरह उपस्थित आवे।”

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

4. The learned counsel for the petitioner argued that when learned R.A.A. specifically ordered that only the evidence in regard to document Jamabandi Svt. 2012 has to be admitted. The other documents which are irrelevant were also produced and taken on record, which is against the directions of the learned appellate court. So far the order of the learned appellate court has been finalised, no other document can be admitted. However, he conceded to the point that the acceptance of amended title in the suit is valid and there is no need for any amendment further.

5. On the other hand, the learned counsel for non-petitioners argued that so far the impleadment of LR's are concerned, they have already been impleaded in the appeal and accordingly the title of the suit has been amended. So far production of documents is concerned, those documents are relevant and it is the discretion of the court to allow or disallow the filing of the documents. At this stage, there was no occasion to file this revision petition. This revision petition is only the abuse of process of law because the learned lower court vide its order dated 17.11.2004 only ordered for filing of documents produced before the court, it does not amount to admission of the record. If any record has been filed, the petitioner was having right to cross-examine. The matter was fixed for evidence and if there is any objection regarding admissibility or non-

admissibility, the petitioner is free to take the objection and is having right to cross-examine the petitioner on relevant points at the time of evidence.

6. I have gone through the contentions advanced by the learned counsel for the parties. After hearing both the parties, I am of the considered opinion that this revision petition is the abuse of process of law. If any party is filing any document, it is the duty of the court to order for the filing of documents. Whether it is admissible in evidence or not? and whether it is to be allowed in evidence or not?, it will be decided at the time of consideration of evidence and cross-examination. The defendant-petitioner is having full right to make the objection to it and it is the learned lower court, to decide whether the documents have to be admitted in evidence or not. At this stage, this revision petition is only the abuse of process of law. There is no occasion to file it. The impugned order is only an interlocutory order and this revision petition is not maintainable and liable to be dismissed; hence dismissed.

Pronounced in open court.

(SATISH CHAND KAUSHIK)
Member

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