

## **IN THE BOARD OF REVENUE FOR RAJASTHAN AJMER**

**Appeal Decree/TA/5566/2002/Churu.**

Mandir Murti Shri Karni Ji Maharaj Survas Tehsil Sujangarh through Pujari and next friend Shri Gyan Dan son of late Shri Ganga Dan caste Charan resident of Survas Tehsil Sujangarh Distt. Churu.

...Appellant.

Versus

State of Rajasthan through Tehsildar, Sujangarh Distt. Churu.

...Respondent.

**D.B.**

**Shri Bajrang Lal Sharma, Member  
Shri D.R. Meena, Member**

**Present:-**

Shri Purna Shankar Dashora, counsel for the appellant.

Shri R.K. Gupta, Govt. Advocate for State.

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Date: 14.12.2012

### **J U D G M E N T**

This second appeal has been preferred under section 224 of the Rajasthan Tenancy Act, 1955 (in short 'the Act') being aggrieved by the judgment and decree passed by Settlement Officer-cum-Revenue Appellate Authority, Bikaner on 30.7.2002 in appeal No. 44/2001.

2. The factual matrix of the case is that the appellant-plaintiff filed a regular suit before Assistant Collector, Sujangarh under section 88 and 188 of the Act read with section 136 of the Rajasthan Land Revenue Act, 1956. The trial court dismissed the suit filed by the appellant-plaintiff through its pujaries on 24.5.2001. Being aggrieved by the judgment and decree passed by the trial court a first appeal was preferred by the appellant before Settlement Officer-cum-Revenue Appellate Authority, Bikaner which was also dismissed on 30.7.2002. Being aggrieved by the appellate court's judgment and judgment, this second appeal has been preferred before this court.

3. We heard the learned counsels and perused the record available on file.

4. Indisputably, the disputed land was entered as '*bani*' and '*rifa-e-aam*' in jamabandi Svt. 2002 and in Jamanbandi Svt. 2012-15. The disputed land measuring 224 bighas 7 biswas of khasra No. 70, 71 and 86

as '*rifa-e-aam*'. In jamabandi Svt. 2016-19, the disputed land was classified as '*oran*' and in jamabandi svt. 2031, the disputed land was classified as '*gochar*' measuring 221 bighas 15 biswas (new khasra Nos. 21, 45, 55, 161, 171 and 174). The main contention of the appellant-plaintiff is that the disputed land was '*bani*' or '*oran*' and classified as '*rifa-e-aam*' of temple Karni Ji Maharaj of Surwas Distt Churu and presently this land has been arbitrarily entered as '*gochar*' and presently the government may convert it for residential area and can be misused by the land grabbers on some or the other pretext. The learned advocate for the appellant-plaintiff has urged the court to restore the original classification to this land so that the land can be saved from the ill designs of the land grabbers and the plantation and environment of the disputed area can be maintained in larger interest.

5. This court is aware that generally pasture lands are under control of the local gram panchayat. This has been an established legal position that the Gram Panchayats are also the institutionalities of the State and the State Government has been made party in this case at all the stages on this case.

6. This court has also carefully perused the reply of the State Government filed in the trial court. The Tehsildar on behalf of the State has replied that the disputed land was '*rifa-e-aam*' and '*bani*' (*oran*) in the land records and for that matter it was a village community land having the religious sanctity so that the plants and trees grown on this land will not be fell down by the local people. In larger public interest if the original classification of the disputed land is restored it will help the local environment and ecology.

7. The systematic land record maintained by the State unequivocally manifests that since Svt. 2002 to Svt. 2019 the disputed land has been *rafa-e-aam* and *oran* (*bani*). Therefore, it is fully justified to restore the original classification. IN view of this court the classification entered in the jamabandi Svt. 2031 is arbitrary and illegal which deserves to be deleted. We are not inclined to enter this

land in the name of the appellant temple as the disputed land has never stood in the name of the temple in the records.

8. As discussed above, this second appeal filed by the appellant-plaintiff is partly accepted and the classification of the disputed land is changed to *Bani* (oran) '*rifa-a-aam*'. Tehsildar, Sujangarh is directed to make necessary entries in the revenue record to this effect without delay.

Pronounced.

(D.R. Meena)  
Member

(Bajrang Lal Sharma)  
Member