

AAP
C/100

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

Appeal Decree/TA/194/2006/Sawai Madhopur.

P.R.

1. Dropadi widow of late Bajranga
 2. Hargovind son of Bajranga
 3. Roopnarain son of Bajranga
 4. Rukmani daughter of Bajranga
 5. Radha daughter of Bajranga
 6. Radhe alias Balla son of Bajranga
 7. Manta daughter of Bajranga
- All by caste Gurjar residents of Gopalpura Tehsil Khandar Distt.
Sawai Madhopur.

...Appellants.

Versus

1. Brij Kishore sn of Vijay Shankar caste Brahmin resident of Bahrawanda Khurd Tehsil Khandar Distt. Sawai Madhopur.
2. State of Rajasthan through Tehsildar.

...Respondents.

D.B.

Shri Ashfaq Hussain, Member
Shri Sanjay Kumar, Member

Present:-

Shri Ashok Agarwal, counsel for the appellants.
Shri Y.D. Sharma and Shri Abhishek Sharma, counsels for the respondent.

Date: 18.11.2015

J U D G M E N T

This appeal before the Board of Revenue has been filed under section 224 of the Rajasthan Tenancy Act, 1955 (in short 'the Act') against the judgment and decree dated 19.11.2005 passed by learned Revenue Appellate Authority, Sawai Madhopur in appeal No. 74/2005, inter-alia, on the ground that the learned first appellate court has not followed the provisions of Order 41 Rule 31 of the Civil Procedure Code and has reversed the findings of the trial court without any legal or factual basis. Without any counter-claim on record the first appellate court while passing the impugned judgment/ decree has ordered for the entries to be made in the revenue record in favour of the respondent. The first appellate court has relied on an unregistered document which was not produced before the trial court. Inter-alia, it has been prayed that this appeal may be allowed and the judgment/ decree passed by the first appellate court be set aside and the judgment/ decree passed by the trial court be revived/ upheld.

2. The respondent was duly summoned and he has put in an appearance through his advocate. Record was called for which has been received. Heard the arguments and perused the record and file.

24




COMPARED BY



Authority is factually and legally not in consonance with law. The learned Revenue Appellate Authority following ditto lines has also added that accordingly entry be made in the revenue record, whereas there was no occasion for him to have passed this said order on ditto lines. Therefore, in toto the learned Revenue Appellate Authority's judgment/ decree is factually and legally unsustainable. The judgment forwarded by the respondent in the facts and circumstances of this case is not applicable, as the judgment is based on the provisions of Order 41 Rule 27 of the Civil Procedure Code, whereas the provision of Order 41 Rule 27 of the Civil Procedure Code have not been followed by the first appellate court. The judgment/ decree passed by the trial court is well reasoned and has been passed after following due procedure of law and needs no interference. In consequence following orders are hereby passed:-

This second appeal preferred by the appellants before the Board of Revenue under section 224 of the Act is hereby allowed. The impugned judgment/ decree passed by the learned Revenue Appellate Authority, Sawai Madhopur dated 19.11.2005 is hereby set aside and consequentially the judgment/ decree passed by the trial court i.e. Assistant Collector, Sawai Madhopur camp Khandar dated 28.4.2005 is hereby upheld.

Pronounced.


(Sanjay Kumar)
Member
18-11-2015


(Ashfaq Hussain)
Member
18-11-2015

COMPARED BY

