

IN THE BOARD OF REVENUE FOR RAJASTHAN AJMER

Appeal/Jagir/74/1987/Jaisalmer

1. Thakur Vikram Singh son of Late Thakur Bhawani Singh
(deceased) through LRs:-
1/1 Smt. Shobha Rani widow of Thakur Vikram Singh
1/2 Nagendra Singh son of Vikram Singh
Both by caste Rajput residents of Pokaran Tehsil Pokaran
Distt. Jaisalmer.

...Appellants.

Versus

1. State of Rajasthan.
2. Jagir Commissioner, Rajasthan, Jaipur.

...Respondents.

S.B.

Dr. G.K. Tiwari, Member

Present:-

Shri Virendra Singh Rathore, counsel for the appellants.
Shri Hagami Lal Choudhary, Dy. Govt. Advocate for State.

Date: 10.10.2011

J U D G M E N T

This appeal, under section 39 of the Rajasthan Land Reforms and Resumption of Jagir Act 1952 (in short 'the Act of 1952'), is directed against the impugned judgment dated 14.12.1979 of Jagir Commissioner, Rajasthan, Jaipur passed in Jagir case No. F(1)JC/ISL by which Jagir Commissioner has decided compensation claim of the appellant (Ex-jagirdar Vikaram Singh son of late Thakur Bhawani Singh) in respect of the resumed jagir of Pokaran in Jaisalmer District.

2. Factual matrix of this chequered case comprises of the facts that Jagir Commissioner earlier decided a compensation claim qua ex-jagirdar Vikaram Singh consequent upon the resumption of the Jagir, by his judgment dated 14.11.1962 which was set aside by this court vide its judgment dated 27.11.1963, and the case was remanded for re-determination of compensation to the Jagir Commissioner. Thereafter Jagir Commissioner after affording opportunity of hearing to the rival parties passed the impugned judgment dated 14.12.1979 by which an amount of Rs.

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1,55,431.79, after various deductions, was shown to be recoverable from the claimant - ex-Jagirdar. Aggrieved against this impugned judgment dated 14.12.1979 of Jagir Commissioner, the appellant filed appeal under section 39 of the Act of 1952 before this court. The learned Division Bench (of this court) comprising of Hon'ble Member Shri Satish Kumar and Hon'ble Member Shri O.P. Jain heard the case but both the learned members did not agree on the 'rekh chakari' dues worked out to Rs. 4,50,215.50 by Jagir Commissioner. There was no dispute between the learned members with regard to the rest of the dues determined by the Jagir Commissioner. However, on the issue of disputed recoverable amount of 'rekh chakari' whereas Hon'ble Member Shri O.P. Jain gave his finding in the judgment dated 16.6.1989 that 'rekh' dues amounting to over Rs. 4.50 lakhs was not recoverable from ex-jagirdar, Hon'ble Member Shri Satish Kumar agreeing fully with the judgment of Jagir Commissioner held that the 'rekh' dues worked out by Jagir Commissioner was recoverable; and neither Jagir Commissioner nor this court has power to write off this arrear. As there was disagreement between two members with regard to the disputed amount of 'rekh' dues, Hon'ble Chairman Board of Revenue referred the matter to the third member for hearing and decision.

3. Accordingly the undersigned, appointed as third member by Hon'ble Chairman, heard the arguments of both the learned counsels in this regard, perused the impugned judgment of Jagir Commissioner, studied the judgments dated 16.6.1989 of both the Hon'ble Members and carefully went through the material available on record.

4. The moot point before me to decide is whether the amount of Rs. 4,50,215.50 shown by Jagir Commissioner as 'rekh chakari' dues is actually payable by ex-jagirdar to the government or not. It is admitted fact that 'rekh' was an annual tribute which used to be paid by the Jagirdar to the former

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Jodhpur State. Pokaran was one of the jagirs in the former Jodhpur State. It is contended by the ex-Jagirdar (appellant) that Jagirdar of Pokaran was exempted from the payment of 'rekh' to the ex-ruler of Jodhpur State. The appellant has, inter-alia, relied upon the alleged 'khas rukkas' (Ex.-A and Ex.-B) and the alleged letter of 1878 A.D. written by Mr. Barr, the Resident appointed by British Government, to A.G.G., in which a reference is said to be made of the fact that 'rekh' was remitted to Thakur Bhabut Singh of Pokaran jagir. The learned Dy. Govt. Advocate has vehemently pleaded that these 'rukkas' are forged and fabricated as they are not duly issued and authenticated by the competent authorities and as such they cannot be considered as trustworthy documentary evidence. In this regard I have gone through the record. The alleged 'khas rukkas' (Ex.-A and Ex.-B) are of the nature of personal letters and these letters seem to make an oblique reference to the intent of the ex-ruler to remit/ waive off the amount of 'rekh' payable by Pokaran Thikana. By no stretch of imagination can these, letters (Ex.-A and Ex.-B) be considered as 'hukmanama' or royal fiats or valid executive orders issued by the competent authority of the erstwhile Jodhpur State. In this regard I tend to agree with the inference of Hon'ble Member Shri Satish Kumar who has correctly held that the alleged 'khas rukkas' (Ex.-A and Ex.-B) did not go through the established procedure of being recorded and followed up by an order signed by the Deewan of the State. As such the contents of these 'rukkas' did not become decision of the Jodhpur State, even if these 'rukkas' are presumed to be genuine. Had it been so, the account-books of Jodhpur State would not have shown 'rekh' payable and would not have reflected them as arrears from year to year.

5. As far as, the alleged letter of Mr. Barr - as Resident - to A.G.G. is concerned, it is still a letter and cannot be taken as an exemption order of the then government. Perusal of the extract from the alleged letter of 1878 from Mr D.W.K. Barr, the

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Resident, to the First Assistant to the A.G.G. (annexure 'F') shows that the matter regarding remission of 'rekh' was still an undecided contentious issue. It states "while Darbar denied that any remission of Hukamnama had been made but Pokaran built upon the claim for this remission on the acknowledged exemption from the payment of 'rekh'." Thus, the alleged letter of Mr. D.W.K. Barr cannot be taken as a conclusive proof about the remission of 'rekh' as is held by Hon'ble Member Shri O.P. Jain. On the contrary there is categorical reference to the fact that "Darbar denied that any remission of Hukamnama had been made".

6. One of the most important evidence in this regard is the oral evidence of Shri Jaswant Raj Mehta, the then Tribute Superintendent, Chief Secretary and Chairman Board of Revenue for the Jodhpur State. He has stated in his evidence that the matter of exemption of 'rekh' remained undecided by the erstwhile State and it was referred to a Committee which could not conclude its task till the merger of the erstwhile Jodhpur State into the State of Rajasthan. Evidently the issue about exemption of 'rekh' in respect of Pokaran jagir stood undecided even until the merger of the erstwhile Jodhpur State into the State of Rajasthan. This leads to logical inference that the 'rekh' was payable but was not paid by the Pokaran Thikana for the mysterious reasons shrouded in history. In this regard I am inclined to agree with the opinion of Hon'ble Member Shri Satish Kumar.

7. Hon'ble learned Member Shri O.P. Jain has given a laboured interpretation that claim to 'rekh' is barred by Article 112 of the Limitation Act 1963. In this regard it would be worthwhile to mention here that Article 112 of the Limitation Act applies only to a suit; and the case under consideration is not a suit. Secondly the Act of 1952 is a special law about land reforms and resumption of feudal Jagirdari system. The special law will

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prevail over other general laws in respect of the matters specified therein, as is categorically stated in section 47 of the Act of 1952. Therefore, consequence of resumption of the jagir lands, according to section 22(1)(e) of the Act of 1952, is that "all arrears of revenue, cesses or other dues in respect of any jagir land due from the Jagirdar for any period prior to the date of resumption shall continue to be recoverable from such Jagirdar".

8. Thus it is duty of Jagir Commissioner to work out arrears of dues of any period prior to resumption; and thereafter he proceeds to determine compensation as per provisions of section 32 of the Act of 1952 deducting, inter-alia, "the amount recoverable from the Jagirdar under clause (e) of the sub-section (1) of section 22 of the Act of 1952. Examined from this angle, I do not find any infirmity in the impugned judgment of Jagir Commissioner and as such I, with all due respect, do not subscribe to the view of Hon'ble Member Shri O.P. Jain about the 'rekh' being time barred.

9. The foregoing discussion goes to establish that the 'rekh' was payable by ex-Jagirdar of Pokaran but somehow it remained unpaid. Obviously this is an unpaid outstanding amount due to the government. Neither the former government of Jodhpur State clearly exempted it nor wrote it off; nor the present government of Rajasthan State waived it off. When a reference for the waiver was made to it, the State Government directed Jagir Commissioner to decide the matter regarding 'rekh'. It would not be out of place to mention here that the Act of 1952 does not empower Jagir Commissioner to remit/ exempt/ write off/ waive off any dues recoverable from the ex-Jagirdar. Jagir Commissioner is empowered only to determine the dues recoverable under section 22(1)(e) of the Act of 1952, and set it off against the compensation to be decided by him in keeping with the provisions of section 32 of the Act of 1952. In this

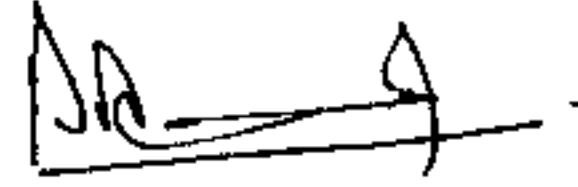
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regard Jagir Commissioner has given a detailed and reasoned judgment correctly determining the dues and deductions vis-à-vis the amount of compensation and rehabilitation grant payable. Except the amount of 'rekh' dues of Rs. 4,50,215.50. Both the learned members are in agreement with regard to the rest of the computation of the dues. The learned counsel for the appellant has also not disputed in his arguments the other minor amounts of the dues worked out. So far as the amount of 'rekh' dues determined by Jagir Commissioner is concerned, I am entirely in agreement with the opinion of the learned Member Shri Satish Kumar, as discussed above.

10. In view of the foregoing discussion, the appeal has no force.

11. Resultantly, the appeal stands dismissed. The judgment dated 14.12.1979 of Jagir Commissioner Rajasthan, Jaipur is upheld.

Pronounced.



(Dr. G.K. Tiwari)
Member