

IN THE BOARD OF REVENUE FOR RAJASTHAN AJMER

Revision/LR/1611/2004/Sikar.

Majid Khan son of Natthu Khan caste Kayamkhani-resident of village Kasli Tehsil & Distt. Sikar.

...Petitioner.

Versus

1. Salim Khan son of Jabdi Khan caste Kayamkhani resident of Kasli Tehsil & Distt. Sikar.

2. State of Rajasthan through Tehsildar Sikar.

...Non-petitioners.

S.B.

Shri Subodh Agarwal, Member

Present:-

Shri Mukesh Jain, counsel for the petitioner.

Shri Sunil Pareek, counsel for the non-petitioner No.1.

Date: 31.01.12

J U D G M E N T

This is a revision petition under section 84 of the Rajasthan Land Revenue Act 1956 (in short 'the Act') against the judgment dated 20.1.2004 passed by Revenue Appellate Authority Sikar.

2. Briefly stated, the facts of the case are that Patwari Halka Kasli submitted a report before Tehsildar Sikar that in Svt. 2058, mentioning that the non-petitioner No. 1 has trespassed on 0.03 hectare of land in khasra No. 394 measuring 2.65 hectare. Thereupon Tehsildar initiated proceeding under section 91 of the Act against the non-petitioner. During the course of proceedings under section 91 of the Act, it came to the knowledge that the non-petitioner No1 has a 'patta' of the disputed land which has been regularised in his favour. Hence the Tehsildar dropped the proceedings under section 91 of the Act vide judgment dated 31.5.2001. Aggrieved against this order of Tehsildar, the present petitioner submitted an appeal before District Collector Sikar who dismissed the appeal in his judgment dated 5.2.2002. This order was further challenged by the petitioner before the Revenue Appellate Authority Sikar who also dismissed the



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appeal filed by the petitioner vide judgment dated 20.1.204. Distressed by this judgment of Revenue Appellate Authority Sikar, the petitioner has submitted the instant revision before this court.

3. I have heard the learned counsel of both the parties.

4. The learned counsel for the petitioner contended that the said 'patta' was issued by the Sarpanch, Kasli to the non-petitioner, whereas Sarpanch has no right to issue patta on the gochar land (pasture land). He further submitted that khasra No. 394 is a 'gochar' land and such lands cannot be purchased or sold. Hence, he pressed for acceptance of the revision.

5. Opposing the contentions of the petitioner, the learned counsel for the non-petitioner contended that the proceedings under section 91 of the Act were dropped by lower court when the non-petitioner submitted the 'patta' of the disputed land which was regularised by the Tehsildar in favour of the non-petitioner on 11.7.1974. He further pleaded that the Gram Panchayat had issued patta of the disputed land in favour of the non-petitioner which was subsequently regularised by the Tehsildar concerned, as per the government notification No. 4.6(17) राज/3/71 dated 3.7.1971 and 4.6(10) राज/मुप-4/77 dated 23.4.1977. Hence, no illegality was committed by the revenue officials in regularising the disputed land in favour of the non-petitioner. The learned counsel further contended that Board of Revenue should not interfere in the concurrent judgments of the lower courts, unless it has exercised the jurisdiction illegally or with material irregularity. In support of his contention learned counsel cited 1995 RRD 731. The counsel contended that since the petitioner has no 'locus standi' in the case and, therefore, the revision petition filed by the petitioner should be dismissed.

6. I have given thoughtful consideration to the rival contentions, perused the impugned judgments of lower courts

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and gone through the relevant notifications, citations and material on record.

7. Perusal of the lower courts file shows that the patta of the disputed land was issued to the non-petitioner by the Sarpanch Kasli and the same was regularised by the Tehsildar concerned in favour of the non-petitioner. As per the government's notification No. प.6(17) राज/3/71 dated 3.7.1971 and प.6(10) राज/ग्रुप-4/77 dated 23.4.1977, Tehsildar was empowered to regularise the land of 'charagah', forest etc. for abadi purposes. The relevant portion of the notification is as under:-

"यदि किसी आसामी, कृषि श्रमिक या गांध के कारीगर, अनुसूचित जाति एवं अनुसूचित जनजाति के सदस्यों, जिन्होंने 18 फरवरी 1955 के उपरान्त परन्तु 31 दिसम्बर 1970 के पूर्व सरकारी कृषि भूमि, गोधर भूमि, गैर मुमकिन भूमि तथा वन भूमि पर स्वयं के उपयोग के लिए रहने हेतु मकान का निर्माण या बाड़ा बनाकर भूमि का रूपान्तरण या अतिक्रमण किया हो तो उनके मामले भी निःशुल्क नियमन किये जाकर उनको मालिकाना हक दे दिया जावे बशर्ते कि इस तरह बनाये गये मकान एवं बाड़ा का क्षेत्रफल 500 वर्ग गज से अधिक न हो"।

This date was further extended till 1.7.1975 vide above mentioned notification dated 23.4.1977.

The record available on the file shows that the non-petitioners has been regularised only 150 Sq. yards of land which is not contrary to the notification. As such no illegality or material irregularity has been committed by the lower courts. Both the lower courts have passed concurrent judgments which deserve no interference by way of revisional jurisdiction. This has been examined and explicitly ruled in AIR 1973 (SC) 76 1995 RRD 730 and 1995 RRD 731.

8. Further, the petitioner is not aggrieved by the regularisation made in favour of the non-petitioner and as such has no locus standi in the present matter. Therefore, there is no force in the revision.

9. This revision petition accordingly stands dismissed.

Pronounced in open court.

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अदालत

Subodh Agary
Member

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(Subodh Agary)
Member