

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

**Reference No.4469/2007/LR/Jaipur :**

State of Rajasthan, through Tehsildar Phagi District Jaipur.

... Petitioner.

**Versus**

Banshi S/o Shri Goru, by caste Brahman, resident of  
Village Mandap, Tehsil Phagi, District Jaipur.

... Non-Petitioner.

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**S.B.**

Shri Pramil Kumar Mathur, Member

**Present :**

Shri Surendra Sharma, Dy.Govt.Advocate for the State.

Shri J.K. Pareek, counsel for the non-petitioner.

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Dated : 18<sup>th</sup> May, 2012

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

This reference has been made by Additional Collector (Second), Jaipur under section 82 of the Rajasthan Land Revenue Act, 1956 (in short to be referred as 'the Act') by his order dated 07.03.2007.

2. Brief facts of the case are that according to Additinal Collector (Second), Jaipur the disputed land bearing khasra no. 204 area 12 biswa situated in Village Mandap Tehsil Phagi District Jaipur was recorded in the name of temple Maufi Mandir Shri Raghunath Ji as per Khatauni Bandobast of Samvat 2011 to 2030. By lapse of time, as per Jamabandi of Samvat 2021 to 2024, this land was recorded in the name of Goru S/o Gangaram, father of present non-petitioner and the name of temple was deleted from revenue records. After the death of Goru, this land was entered in the name of his son Banshi by mutation no.220 dated 21.6.1993 and he was made khatedar tenant of the disputed land as per respective Jamabandis of Samvat 2050-2053, 2054-2057, 2058-2061. Considering this transfer of the temple land to the non-petitioner as illegal being violative of section 46 of Rajasthan Tenancy Act,1955, Additinal Collector (Second), Jaipur has made this reference to the Board of Revenue.

3. I have heard the arguments of learned counsel for the parties and perused the record.

4. In support of reference, learned Dy.Govt.Advocate submitted that initially disputed land was entered in the name of Maufi Mandir Shri Raghunath Ji as Khudkasht land; but ignoring the settled position of law & violating the provisions of the Rajasthan Tenancy Act, 1955 khatedari rights were given to non-petitioners, which is illegal. Hence, reference be accepted.

5. Learned counsel for the non-petitioner has submitted that the disputed land does not belong to Maufi Mandir Shri Raghunath Ji and had never been in the khatedari & possession of the temple. He argued that disputed land is in possession of non-petitioner and khatedari of this land was given to him as per rules. He was continuously cultivating over it. He further argued that reference was moved with inordinate delay. Additional Collector has made this reference unnecessarily. Hence, the present reference deserves to be rejected. He has filed following judicial pronouncements in support of his contentions :-

- (i) 2010 RRD page 499
- (ii) 2007 RBJ (14) page 31
- (iii) 2011 RRT (1) page 87

6. I have given my earnest consideration to the rival arguments advanced by learned counsels and scanned the matter carefully.

7. From pesural of Khatauni Bandobast of Samvat 2011 to 2030, it appears that khatedari rights of the disputed land were recorded in the name of Maufi Mandir Shri Raghunath Ji as "Khudkasht" land. Respective Jamabandis of Samvat 2054-2057, 2058-2061 reveal that disputed land has been entered in favour of non-petitioner and by efflux of time, the name of temple Maufi Mandir Shri Raghunath Ji was deleted from the revenue records and non-petitioner was recorded as khatedar tenant of the temple land without any justified reasons.

8. It transpires from the revenue records produced by the petitioner that the disputed land was recorded in the name of non-petitioner without any convincing reasoning and without any legal edifice. As per sections 16 & 46 of the Rajasthan Tenancy Act, 1955, no khatedari rights can accrue to Pujari and/or his successor on the land originally held for idol/temple. A pujari cannot acquire khatedari rights derogating to the title of the temple. Under the revenue law, idol/temple is a juristic person having the status of perpetual minor and the transfer of khatedari rights of perpetual minor for whatsoever purpose is legally prohibited.

Thus, the transfer of the land pertaining to temple/idol in the name of non-petitioner is completely prohibited by the law, having no legal sanctity and void ab initio. Therefore, the reference made by Additinal Collector (Second), Jaipur deserves to be accepted.

9. As far as contentions with regard to inordinate delay is concerned, as law does not permits the conferment of khatedari which belongs to perpetual minor i.e. Temple and any act detrimental to Temple having special status of minor is ab initio void; therefore, on the technical ground of limitation, such illegal practices cannot be encouraged. Hence, the citations submitted by the learned counsel for non-petitioner having altogether different facts supply no force.

10. In view of above discussion, the reference is accepted and the disputed land is ordered to be restored in the khatedari of "Maufi Mandir Shri Raghunath Ji" with deletion of the name of non-petitioner as khatedar from the revenue records. Mutation no. 220 dated 21.6.1993 made in favour of non-petitioner is cancelled. The reference is disposed of accordingly.

Pronounced in open court.

**(PRAMIL KUMAR MATHUR)**  
Member

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