

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER**Revision No.8906/2009/TA/Jaipur :**

1. Phool Chand S/o Shri Mangu Ram Saini, by caste Mali
 2. Ramji Lal S/o Shri Jhutha Ram Yadav, by caste Ahir
 3. Kishan Lal S/o Shri Dhanna Ram, by caste Meena
- All residents of Village Pragpura, Tehsil Kotputli, District Jaipur.

... Petitioners.

Versus

1. Murti Mandir Shri Banke Bihariji Maharaj, Pragpura, Tehsil Kotputli, through Pujari & Mahant Bhagwat Das Chela Lala Das Maharaj, R/o Village Pragpura, Tehsil Kotputli, District Jaipur.
2. State of Rajasthan, through Tehsildar Kotputli, District Jaipur.

... Non-Petitioners.

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S.B.

Shri Pramil Kumar Mathur, Member

Present :

Shri Virendra Singh Rathore : counsel for the petitioners.

Shri Vijay Soni : counsel for non-petitioner no.1.

Shri Shanti Prakash Ojha : Dy.Govt.Advocate for non-petitioner no.2.

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Dated : 11 October, 2012

J U D G M E N T

Instant revision petition has been filed against the order dated 6.11.2009 passed by the learned Revenue Appellate Authority, Jaipur whereby he has set aside the order dated 24.8.2009 passed by the learned Assistant Collector, Kotputli by which the disputed land was ordered to be given on cash security to the present petitioners.

2. Adumbrated in brief, the present petitioners have filed an application under section 212(2) of the Rajasthan Tenancy Act, 1955 before the Assistant Collector, Kotputli for giving the disputed land on cash security to petitioners. The learned Assistant Collector, Kotputli vide order dated

24.8.2009 has given the disputed land to petitioners subject to furnishing the cash security to the tune of Rs.1500/- per bigha per year with the provision to pay fifty percent of cash security i.e. Rs.750/- per bigha per year for management of the temple. Aggrieved by the order dated 24.8.2009 passed by the learned Assistant Collector, Kotputli, non-petitioner no.1 Murti Mandir Shri Banke Bihariji Maharaj has preferred an appeal before the learned Revenue Appellate Authority, Jaipur who, by order dated 6.11.2009, set aside the order passed by the learned Assistant Collector, Kotputli dated 24.8.2009. Being dissatisfied with the order dated 6.11.2009 passed by the learned Revenue Appellate Authority, Jaipur, present petitioners have approached to the Board of Revenue by way of this revision petition.

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

4. The learned counsel for the petitioners submitted that they are the recorded khatedar of the disputed land & are in possession of the disputed land. They are ready to pay cash security. As the property was not in medio and auction proceedings were not initiated by the receiver; therefore, the learned Assistant Collector, Kotputli has rightly ordered to give the disputed land to the petitioners on cash security, but Revenue Appellate Authority had wrongly accepted the appeal which deserves to be quashed. He further submitted that as per the provision of section 212(2) of the Rajasthan Tenancy Act, 1955, any person against whom an injunction has been granted or in respect of whose property a receiver has been appointed, may offer cash security. In support of above contentions, learned counsel for the petitioners has submitted following judgments reported in :-

- (i) 1979 RRD page 294
- (ii) 1985 RRD page 296
- (iii) 1993 RRD page 343
- (iv) 1993 RRD page 548
- (v) 1993 RRD page 645
- (vi) 1995 RRD page 76
- (vii) 1998 RBJ page 59
- (viii) 1999 RRD page 89
- (ix) 2007(2) RRT page 926
- (x) 2007(2) RRT page 1253
- (xi) 2008(1) RRT page 646
- (xii) 2010(1) RRT page 203

5. E converso, the learned counsel for the non-petitioner no.1 has urged that petitioners are not in physical possession of the disputed land. The possession of the disputed land has already been taken by the receiver and he has auctioned the disputed land. He further submitted that the petitioners are not using the land for agriculture purpose. The rights of the non-petitioner, who is admittedly a minor, are required to be protected. Therefore, in the above circumstances, the appellate court did not commit any mistake in rejecting the appeal preferred by the petitioners.

6. Supporting the above submissions, the learned Deputy Government Advocate for the State has contended that temple is the recorded khatedar of disputed property, so in the interest of justice, the impugned order is justified.

7. I have gone through the arguments advanced by learned counsel for the parties and scanned the matter carefully.

8. From the perusal of recent revenue records, it appears that non-petitioner no.1 Murti Mandir Shri Banke Bihariji Maharaj is the recorded khatedar of the disputed land. Indisputably, temple is a perpetual minor; hence, its interest is required to be protected by the court.

9. Ordinarily, the land can be given on cash security to the person who is in possession but in the present case, it reveals that petitioners are not in possession of the disputed land at the time of filing the application under section 212(2) of the Rajasthan Tenancy Act, 1955 and possession of the land has already been taken by the receiver on 9.7.2009. As per the report of receiver and impugned order passed by the learned Revenue Appellate Authority, it reflects that some chunk of the land is being used for the workshop & manufacturing unit of truck body building which shows that petitioners are using the land other than the agriculture purpose, accordingly property is in danger of being wasted & damaged.

10. It is also explicit clear that learned trial court has imposed the cash security to the tune of Rs.1500 per bigha per year which comes to Rs.33,000/- per annum for entire land; but as per the receiver report at the time of auction of the disputed land, the bid was started from Rs.1,50,000/- and closed at Rs.3,71,000/- per year absolutely. So, there is huge & vast difference between the quantum of cash security & auctioned amount, thus difference amount certainly will strengthen the administration & management of temple property; therefore, in the circumstances as mentioned above, for the proper preservation, management & welfare of the perpetual minor i.e. temple, the learned Revenue Appellate Authority has exercised his wisdom judicially which does not warrant any interference by this court. Hence, this revision petition having no merit deserves to be dismissed.

11. As present dispute relates with the minor property & tiller of disputed land is not protecting the suit property, therefore the ratio of the judgments produced by learned counsel for the petitioners does not throw any light to the present case.

12. Resultantly, the revision petition is dismissed.

Pronounced in open court.

(PRAMIL KUMAR MATHUR)
Member

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