

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRITS No. 4936 of 2004

GOPAL SINGH
V/S
STATE & ORS.

Mr. AK SINGH, for the appellant / petitioner

Date of Order : 8.11.2004

HON'BLE SHRI N P GUPTA,J.

ORDER

The grievance of the petitioner is that he was allotted the land way-back in the year 1976, and is continuing in possession till the date. However, on his back, and without giving any opportunity of hearing, his allotment is said to have been cancelled in the year 1990, and thereafter, in purported compliance of the order of the State Government dated 11.2.2004, purportedly passed under Rule 24 of the Rajasthan Colonisation (Allotment and Sale of Government Land in the Indira Gandhi Canal Colony Area) Rules, 1975, that land has been allotted to the respondent no.5.

It is informed by learned counsel for the petitioner that on coming to know about cancellation of his allotment, he has already filed an appeal under Rule 23, being Annexure-10, that is already pending. In that view of the matter, when the petitioner is already pursuing the remedy against cancellation of his allotment, it is for the petitioner to ask the appellate authority, or the authorities in hierarchy to protect his possession.

So far as the allotment made to the respondent no.5 is concerned, according to the learned counsel for the petitioner, since the order of the State Government has been passed under Rule 24, that is not appealable under Rule 23. True it is, that the order of the State Government under Rule 24 is not appealable. However, on being put a pointed query, learned counsel for the petitioner informed that the order of the State Government dated 11.2.2004 is only for allotment of 25 Bighas of land to the respondent no.5 in the general category, and on the prescribed rates and terms, and is not for allotment of any specified land, which might have included the land of the petitioner. In

my view, since in the order of the State Government, it is not directed to allot any specified land, which might include the land of the petitioner, so far the order of the State Government passed under Rule 24 is concerned, the petitioner may have no grievance, and the grievance of the petitioner, as raised, is against the allotment of the specific land in question, which identification of the land for the purpose of allotment has been done by the allotting authority in Annexure-3, as such, that part of the order of the allotting authority in exercising discretion of identifying the land for allotment, which included the land in question is clearly appealable under Rule 23, and therefore, the petitioner may file appeal against this order, Annexure-3 to the appellate authority, and the appellate authority will obviously examine the matter on merits so far the question of identity of land to be allotted to the respondent no.5 is concerned.

In these circumstances, I am not inclined to entertain the present writ petition. The same is, therefore, dismissed summarily with the aforesaid liberties.

(N P GUPTA),J.

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