

S.B.CIVIL WRIT PETITION NO.3589/2005

Bhanwar Singh
V.
Forest Officer, Kolayat Distt.Bikaner & Ors.

Date of Order : 26th September, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.S.Bhati, for the petitioner.

Under the provisions of Rajasthan Colonisation (Allotment and Sale of Government Land in Indira Gandhi Canal Colony Area) Rules, 1975 (hereinafter referred to as "the Rules of 1975") the land measuring 25 bighas was allotted to the petitioner being a person migrated from Pakistan.

The petitioner preferred an application before the allotting authority to exchange the land allotted to him by a suitable land as 9 bighas of land only remained command land out of total 25 bighas of land allotted to him.

The application submitted by the petitioner was accepted by the allotting authority and 21 bighas of command land and 4 bighas uncommand land was allotted to him in murabba No.213/11, kila No.1 to 3, kila No.8 to 25 and kila No.4 to 7 in exchange of the land earlier allotted to him.

The Forest Officer, Kolayat being aggrieved by exchange of land as stated above preferred an application under sub-rule(3) of Rule 22 of the Rules of 1975 before the Commissioner, Colonisation, stating therein that the land allotted to the petitioner was already in possession of Department of Forest being the same allotted to it in earlier years. The Commissioner, Colonisation after hearing the parties to dispute passed an order dated 26.11.1996 cancelling the allotment of land to the petitioner in Chak 4 MKD, murabba No.213/11. while cancelling the allotment of land made in favour of the petitioner a specific direction was also given by the Commissioner, Colonisation to allot 25 bighas of land from any other Rakba Raj to the petitioner within a period of two months being a migratee from Pakistan.

The petitioner being aggrieved by the order dated 26.11.1996 passed by the Commissioner, Colonisation preferred a revision petition under Section 83 of the Land Revenue Act, 1956 before the Board of Revenue, Rajasthan, Ajmer. The revision petition also came to be rejected by the Board of Revenue vide the judgment dated 5.4.2005. Hence the present petition for writ is preferred by the petitioner.

The contention of counsel for the petitioner is that the courts below erred while cancelling the

allotment already made in favour of the petitioner by treating the land in question already allotted to the Forest Department though no record of revenue was produced.

I have heard counsel for the petitioner and also perused the orders impugned.

From perusal of the orders impugned it is apparent that the courts below after perusing the relevant record reached at the conclusion that the land allotted to the petitioner in exchange was actually in possession of the Department of Forest being allotted in earlier years. The aforesaid finding of fact does not require any interference by this Court under Articles 226 and 227 of the Constitution of India.

The courts below also held that under the Rules of 1975 the allotting authority at its own is having no power to allot a piece of land in exchange to an allottee, as such the allotment to the petitioner itself was held without jurisdiction. Under the Rules of 1975 I also do not find any power with the allotting authority to make such exchange of land in favour of the allottee at its own. It is further relevant to note that the Commissioner, Colonisation while cancelling allotment of land made in favour of the petitioner also directed the allotting authority

to allot 25 bighas of suitable land to the petitioner being a migratee from Pakistan. In view of this direction the petitioner is not going to be effected adversely. In fact his rights were protected by the courts below.

In totality of facts and circumstances of the case and in view of the discussion made above I do not find any just reason to interfere with the orders passed by the courts below.

Accordingly the petition for writ is dismissed.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.