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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH,
JAIPUR

S.B.CIVIL WRIT PETITION NO.3694/1996.

Municipal Board, Pushkar. Vs. State of Raj. and Anr.
31.08.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.K.N.Gupta, for the petitioner.
Mr.B.K.Sharma, Deputy Government Advocate.
Mr.Praveen Balwada, for the respondent No.7.

In this writ petition, the petitioner has prayed for quashing of the order dated 07.01.1987 passed by the Assistant Settlement Officer, Ajmer declaring khasra No.246 measuring 4 bighas and 2 biswas as property of the respondent No.6 Ashram Trust.

I need not go into the details of the facts which have been canvassed before me as the learned counsel for the parties brought to the notice of the court that the matter had earlier come up before this court and the Division Bench of this court vide Annexure-11 judgment dated 24.07.1989 in S.B.Civil Writ Petition No.2466/1989, while deciding the said writ petition, held as follows:-

"Heard learned counsel for the petitioner and perused the order Annex.6 dated 7.1.87 passed by the Assistant Settlement Officer Ajmer. On perusal of the order we find that this order relates to the land bearing khasra No.168/1. It does not relate to khasra No.168/7. The petitioner's case is that the land comprised of khasra No.168/7 was handed over to the

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petitioner by the Collector under Section 92 of the Land Revenue Act vide order dated 24.6.63 Annexure-1. Suffice it to say that the order Annex.6 does not pertain to khasra No.168/7 and as such the petitioner is not affected. If any error has crept in Annexure-6, regarding khasra number and if that error is rectified, it would be open to the petitioner to have recourse to such remedy which may be available to him in law. The petitioner can make no grievance in respect of that khasra number 168/1 and no claim can be advanced by the petitioner.

The writ petition is dismissed with the above observations."

The present is the second inning of the petitioner for the same relief which was sought earlier before this court and which this court did not grant to the petitioner.

A reply was filed by the State and in para 5 of the reply, the State supported the case of the petitioner as follows :-

"5. That the contents of para No.5 of the writ petition as stated by the petitioner are replied in terms that the land comprised of khasra No.246 measuring 4 bighas and 2 biswas of which the old khasra Nos. are 168/7, 168/6 and 170/1633 was wrongly entered in the name of respondent No.6, Swami Santanand Udasin Ashram Trust, Pushkar, vide order dated 7-1-1987 passed by the Assistant Settlement Officer as the said entry in the name of respondent No.6 was illegal and void, therefore, a reference was submitted before settlement commissioner. The settlement commissioner made a reference for correction of the entry before the board of revenue is still pending for decision."

Thus, it would be seen that State has tried to support the case of the petitioner. However, it was put to the learned counsel for the parties and it was submitted by the learned counsel for the respondent No.7 who is the purchaser of the land from the respondent No.6 Trust that in pursuance of the reference made by the Settlement Commissioner as was stated by the State at para 5 of the reply which has been quoted above, the learned Board of Revenue has since dismissed the reference by order dated 24.07.2000.

In view of the above, the position with regard to the entries which were made in respect of the Khasra No.168/7 which are sought to be quashed by means of the present writ petition cannot be allowed to be raised in the light of the judgment of the Division Bench of this court, referred to above and also in the light of the subsequent development that the reference application which was made by the Settlement Commissioner for correction of the entries before the Board of Revenue has been dismissed by the Board by the judgment dated 24.07.2000 and the aforesaid judgment of the Board of Revenue has not been challenged by means of any proceedings by the petitioner or by the State and hence has attained finality.

In view of the aforesaid, the questions which have been sought to be raised in the present writ petition as to whether the land of the petitioner has been wrongly recorded as contended by the petitioner and

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that khasra No.168/7 is owned and possessed by the petitioner have been decided by this court vide judgment dated 24.07.1989 and then by the learned Board of Revenue upon a reference vide judgment dated 24.07.2000 further the same cannot be decided in the writ jurisdiction as the same relates to the questions of fact and those have already been determined by the competent authorities.

In view of the above, this writ petition stands dismissed.

(DALIP SINGH) , J.

Solanki DS, Jr.P.A.