

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Kailash Chand & Others Vs.
Board of Revenue for Rajasthan Ajmer & Others
(D. B. Civil Special Appeal (Writ) NO. 448/2000)

D. B. Civil Special Appeal under Ordinance 18 of the
Rajasthan High Court Ordinance, 1949 against the
judgment dated 10-12-1999 of learned Single Judge
in SB Civil Writ Petition No. 4626/1999.

Date of Judgment: June 30, 2008.

PRESENT

HON' BLE MR. JUSTICE SHIV KUMAR SHARMA
HON' BLE MR. JUSTICE MAHESH BHAGWATI

Mr. R. K. Agarwal, for the appellant.

Mr. Amit Chhangani, for respondents No. 9 to 11.

BY THE COURT: (PER HON' BLE Shiv Kumar Sharma, J.)

The Board of Revenue Ajmer while accepting the reference made by Additional Collector Tonk under section 82 of the Rajasthan Land Revenue Act, 1956 (for short '1956 Act') directed concerned authorities to enter the name of Deity in the mutation. The said order was assailed before learned Single Judge by filing writ petition, which was dismissed vide order dated December 10, 1999. Hence this appeal.

2. We have heard rival submissions.

3. Long and short of the submissions of learned counsel for the appellant is that the

appellant was condemned unheard by the Board of Revenue for Rajasthan Ajmer since he was not impleaded as party. According to learned counsel the reference was made after a long delay and since it was beyond limitation it could not have been answered by the Board of Revenue. We have been taken through the judgments rendered by the courts below.

4. Having scanned the material on record we notice that initially the land in question was entered in the name of Deity and its Pujari appears to have been misappropriated the said land by entering into a compromise in a partition suit.

5. The deity is a perpetual minor and rights of deity are to be protected by the courts as is held by their Lordships of the Supreme Court in A. A. Gopal Krishnan Vs. Cochin Devaswom Board (2007) 7 SCC 482 in para 10 thus: -

"The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their trustees/ archakas/ shebais/ employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the authorities concerned. Such acts of "fences eating the crops" should be dealt with sternly. The Government, members or trustees of boards/ trusts, and devotees should be

vigilant to prevent any such usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation."

(Emphasis supplied)

6. In our opinion sale of land belonging to deity is void ab initio and no power is vested in the purchaser.

7. As a result of above discussion, we find no merit in the instant appeal and the same stands dismissed without any order as to costs.

(Mahesh Bhagwati), J. (Shiv Kumar Sharma)J.

arn/