

**S.B. Criminal Revision Petition No.344/2009
V.Sumermal Chopra. VS. State of Rajasthan & Ors.**

Date of Order :: 24 December, 2011.

Hon'ble Mr. Justice Sandeep Mehta

Mr.Mahesh Thanvi, for the petitioner.

Mr.Mahipal Bishnoi, PP, for the respondent State.

Mr.CS Rajpurohit, for the respondents.

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Heard learned counsel for the parties.

The present revision petition has been filed by the petitioner/complainant challenging the order dated 7.3.2006 passed by the learned Special Judge, Anti Corruption Cases, Jodhpur in connection with F.I.R. No.212/2003 and F.R. No.99/2004 whereby the protest petition filed by the petitioner has been rejected and the F.R. submitted by the ACB in the matter has been accepted.

Briefly stated the facts necessary for the disposal of the present revision are that the petitioner filed a complaint before the learned Special Judge, Anti Corruption Cases, Jodhpur with the allegations that there was a plot measuring 4032 sq.ft., being the ancestral property of one Bagataram Purohit situated at village Sayla. The plot was purchased by Rikhab Chand Suthar for a sum of Rs.2,50,000/-. Thereafter, Rikhab Chand showing the plot to be of his own ancestral property made an application before the panchayat for issuance of the patta and the

Sarpanch Kistura Ram directed the ward panchas Shambhoo Singh, Jugraj and Mohan Lal to inspect the submit the report and after the report was so submitted, a recommendation was made under the Panchayati Raj Rules, 1996 particularly, Rule 157(b) thereof for the issuance of patta of the property in question and accordingly, the patta was issued after deposition of Rs.200/- on 3.1.2002.

The said complaint was filed by the complainant with the A.C.B., Jodhpur where enquiry was conducted. After the preliminary enquiry, F.I.R. No.212/2003 was registered for the offences under Section 13(1)(d)(2) of the Prevention of Corruption Act and Sections 467, 468 and 471 IPC and investigation commenced. During the course of investigation, the Bureau came to the conclusion that the plot in question was purchased by Rikhab Chand from Bagataram who was in possession thereof for more than 50 years as the property was his ancestral property and thereafter, the purchaser Rikhab Chand made an application for issuance of the patta and the patta was validly issued because the possession of the plot was 50 years old. Upon consideration of Rule 157 of the Rules of 1996, the Bureau came to a conclusion that for a constructed property in existence for more than 50 years, a patta can be issued on deposition of Rs.200/-. The said F.R. was accepted by the Special Judge initially on 30.11.2004 whereupon the petitioner filed a revision petition before this Court

challenging the order of acceptance of F.R. and the matter was remanded back to the learned Special Judge for providing the petitioner with an opportunity of being heard and thereafter to pass a fresh order.

The learned Special Judge considered the matter again on the F.R. after providing an opportunity of being heard to the petitioner and by the order dated 7.3.2006, the F.R. has been accepted. Thus, the petitioner has approached this Court by way of the present revision seeking direction for setting aside the order dated 7.3.2006 accepting the F.R. filed against the respondents no.2 to 7.

Assailing the order impugned, learned counsel for the petitioner submitted that the order impugned is perse illegal and also an abuse of process of law. It is submitted that since the possession of the plot for the period in excess of 50 years was not with the purchaser Rikhab Chand, therefore, it was not at all justified for the learned Special Judge to have accepted the F.R. It is submitted that by the act of issuance of the patta even without the registration of sale, a loss of Rs.56,236/- was caused to the State and likewise, a wrongful gain was caused to Rikhab Chand. Thus, it is submitted that the order impugned be set aside and direction be issued to the learned Special Judge to consider the matter afresh and pass a fresh order on the FR.

Per contra, learned counsels appearing on behalf of

the respondents submitted that the order impugned is absolutely justified. It is submitted that as per Rule 157 of the Rules of 1996, it is clear that a patta can be issued by the panchayat for a property which is in existence for the period in excess of 50 years for a sum of Rs.100/- only and for a property which has been in existence within a period of 50 years at a rate of Rs.200/-. Thus, it is submitted that since the property in question was admittedly in existence for more than 50 years and because Rikhab Chand purchased the said property from the original owner thereof, the panchayat was very much entitled to issue a patta after charging a sum of Rs.200/- as per Rule 157(b) of the Rules of 1996.

I have given by thoughtful consideration to the arguments advanced at the bar and have carefully perused the impugned order as well as the provisions of Rules of 1996.

For the convenience sake, Rule 157(b) is quoted herein below :-

"157. Regularisation of old houses.- Where the persons are in Possession of the old houses in Abadi land and desire to get a patta issued patta may be issued by the Panchayat after depositing charges as under :-

(a) For old houses constructed more than fifty years ago.
Rs.100/-

(b) For old houses constructed during last fifty years from the date of commencement of these rules.

Rs.200/-"

From a perusal of the aforesaid provision, it becomes

apparent that the panchayat is very much entitled to issue a patta for a property which has been constructed within a period of 50 years after charging a sum of Rs.200/- only. As has been observed above, the patta was issued by the panchayat after charging Rs.200/-. Thus, it cannot be said that any irregularity has been committed by the Panchayat in issuing the patta in this manner. That apart, the learned trial judge has observed that the proceedings in relation to registration were also pending before the Sub-Registrar. Thus, it cannot be said that the action of the respondent Rikhab Chand in making an application and procuring the patta in question and the act of the other respondents who are Sarpanch and Panchas of panchayat in issuing the patta to the purchaser Rikhab Chand suffers from any irregularity or illegality so as to tantamount to be an offence. Thus, the order impugned whereby the F.R. accepted, cannot be said to be illegal or unjust by any stretch of imagination.

Accordingly, the present revision petition, being bereft of any force, is hereby dismissed.

[Sandeep Mehta],J.

/S.Phophaliya/