

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. CIVIL WRIT PETITION NO.5895/1995
Uttam Chand vs. Board of Revenue & Ors.

DATE OF ORDER : : 30th June, 2015

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri Karanpal Singh for the petitioner
Shri R.K. Mathur, Sr. Advocate with
Shri Aditya Mathur for the respondents.

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This writ petition has been filed by petitioner-Uttam Chand, who has unsuccessfully contested the suit for possession before SDO, Revenue Appellate Authority and the Board of Revenue.

Case of the petitioner as originally set up before the SDO was that his father on partition of the country came from that part of India, which now comprise in Pakistan and settled in Alwar District. Government allotted them some plots for residence and also some agricultural land. As per the registration card, Kishan Lal i.e. respondent no.4 herein being the eldest among four brothers, his name was shown at first place, but in the family division, petitioner came in possession of plots and some agricultural land as would be evident from khasra khatauni of 2035 & 2039 and his name was entered in the revenue records. The Tehsildar,

Govindgarh illegally and without following due process, entered the name of Kishan Lal, respondent no.4 as khatedar of the disputed land vide order dated 31.5.1978. Petitioner challenged aforesaid order in appeal before Assistant Collector, which was allowed by order dated 15.10.1989. In those proceedings, statement of petitioner was recorded on 30.6.1987 which was supported by one Bishan Chand, a resident of same village, who admitted that land bearing no.153 measuring 2 bigha 15 biswas was in possession and ownership of petitioner and petitioner on that basis claimed possession of his share of land.

Learned counsel for the petitioner has argued that as per the family division, the land bearing khasra no.153 measuring 2 bighas and 15 biswas came into share and possession of the petitioner and entry of the same is also available in the revenue record as per Annexure 3 and 4. Non-petitioner no.4 Kishan with the motive to grab the land, got his name entered in the revenue record as khatedar. The Assistant Collector has erred in law in rejecting the suit. The land was allotted to family and not to respondent no.4 alone. Taking advantage of the fact that petitioner was minor at that time, Kishan

got his name entered as the allottee. Petitioner deposited the entire rent and cost of land. Learned counsel has referred to the family settlement (Annexure-1) showing that petitioner had equal share in that and it was agreed by the family members that none of the family members have right to grab share of the land of the petitioner.

Learned counsel for the respondents opposed the writ petition and submits that land only belongs to the person in whose favour the allotment was made and not to the other members of the family. It is contended that the petitioner had not tried to cancel the sanad-patta and the sanad-patta and jamabandi is in the name of respondent-Kishan Lal. It is contended that it was already held by the Gram Panchayat and the Board of Revenue that the land of khasra no.153 belongs to respondent-Kishan Lal and not to the petitioner. Learned counsel for the respondents has cited the judgement passed in identical S.B. Civil Writ Petition No.6127/1998, Kishan Lal vs. Board of Revenue & Ors. decided on 16.11.2006 wherein the judgement of the Board of Revenue has been upheld and the writ petition was dismissed. The division bench has also in SAW No.39/2007 vide judgement dated 29.2.2008

upheld the judgement of the single bench.

This dispute has been decided on issue no.4 by the court below. The SDO in the finding recorded on this issue has categorically mentioned that the land has been allotted in the name of Kishan Lal in whose favour sanad/patta was issued. He was in possession of the disputed land. Ex.P1, the registration card indicates name of Kishan Lal as also his wife Parvati Devi and also brother Dayal Chand and Uttam Chand. He paid the amount of premium and got the receipts. The Revenue Appellate Authority has upheld the judgement passed by the SDO. It has rejected the argument of the petitioner that registration card is prepared on the basis of names of entire family members that the lands shall be taken to have been allotted in favour of those whose names are included in the registration card. The Revenue Appellate Authority has held that land shall be taken to have been allotted in the name of person in whose favour allotment is made and not to the entire family. The Board of Revenue has also upheld that order of Revenue Appellate Authority.

This Court in Satnam Singh & Anr. vs. Jagar Singh & Ors.-1974 WLN (UC) Volume 1 page 12 considered the similar issue, in which case also

the allotment certificate indicated the name of one Pathanasingh and other family members and held that that does not mean that the lands were allotted to all of them. The allotment certificate shows that the name of other members of the family were mentioned therein in order to show that none of them was allotted any land elsewhere and that all of them were genuine displaced persons. All the three courts below have rightly appreciated the material and evidence and arrived at just and reasonable conclusion.

In view of above, I find no merit in this writ petition, which is accordingly dismissed.

(Mohammad Rafiq),J.

RS/1

All corrections made in the judgement/order have been incorporated in the judgement/order being emailed. (Ravi Sharma,P.A.)