

Rajasthan High Court

Babu Singh vs State Of Rajasthan And Ors. on 29 November, 1989

Equivalent citations: 1 (1990) WLN Rev 147

Bench: M Jain, R Verma

JUDGMENT

1. Heard learned counsel for the parties

2. It is not necessary go to into the facts of this case as it has got a long history and not material for deciding this writ petition. What is material for the decision of this writ petition is as to whether after regularisation, the sale of land in favour of Amarjeet Kaur, Balkaran Singh and Angrej Singh respondents Nos. 6 to 8 effected in the year 1981 by Surjeet Kaur, Vichitra Singh and Gurees Singh respondents Nos. 9 to 11, the interim order passed in proceedings Under Section 175 of the Rajasthan Tenancy Act can survive. It may be mentioned that proceedings Under Section 175 of Rajasthan Tenancy Act were initiated on the application of Tehsildar, Hanumangarh against Surjeet Kaur, Vichitra Singh and Gurdee Singh respondents Nos. 9 to 11 and Jagsir Singh, Veer Singh sons of Gurcharan Singh and Mst. Kartaur Kaur widow of Gurcharan Singh and also Gurdev Singh, Gurdeep Singh, Baljit Singh Kuldip Singh were impleaded non-petitioners on their application. In proceedings Under Section 175, Rajasthan Tenancy Act receiver was appointed on the application of Tehsildar on 7-3-1989 and revision was preferred against that order before the Board of Revenue which was dismissed by the Board of summarily on 27th March, 1989. Thereafter two applications were presented by the present petitioners raising an objection that they were not made parties and another application was presented Under Section 212(2) of the Rajasthan Tenancy Act for modification of the order of appointment of receiver and it was prayed that instead of appointing the receiver, cash security may be taken from the present petitioners. Thereupon the learned Sub-Divisional Officer passed order Anx. 7-A and the order of cash security was passed. It was ordered that in case security as ordered is not paid, the receiver will take over possession else the receiver shall stand removed from the property in question. An appeal was preferred against the order dated 17-4-1989 whereby cash security was ordered to be given by respondent Nos. 6 to 8. The learned Revenue Appellate Authority vide order dated 27th April, 1989 directed that in exercise of the powers Under Section 151, CPC the receiver shall take back possession in favour of the State and shall conduct fresh auction and the Sub Divisional Officer, Hanumangarh was bound down not to pass any order in respect of land in question till any order is passed by the Collector, or bf the Revenue Appellate Authority or by the Board of Revenue. The stay application presented by the respondents Nos. 6 to 8 in that appeal against the order dated 17-4-1989 was rejected, This interim order dated 27-4-1989 was maintained by the Board of Revenue in revision filed by the present petitionee which is marked Anx. 10. The petitioners had approached this court fon setting aside the order passed by the Revenue Appellate Authority as well as by the Board of Revenue. It may be stated that vide order dated 22-6-1989 Anx. 15 regularisation order has been passed. When regularisation has been made by the Sub-Divisional Officer, the proceedings Under Section 175 will not survive and when proceedings Under Section 175 will not survive, then the interim orders will also go whether passed by the Revenue Appeal Authority in the appeal pending as well as interim order passed on 7-3-1989 in the main proceedings. Proceedings Under Section 175 of the Rajasthan Tenancy Act will automatically come to an end. As a result of regularisation order, any proceedings

whether original or appellate would not survive and thus the appeal pending before the Revenue Appellate Authority as well as the main proceedings Under Section 175 of the Rajasthan Tenancy Act reserve to be dropped.

3. Accordingly, the writ petition is allowed and the proceedings Under Section 175 before the Sub-Divisional Officer as well as the pending appeal before the Revenue Appellate Authority are dropped. How ever, it would be open to the SDO to pass ancillary order with regard to restoration of possession consequent to the removal of the receiver as a result of regularisation.