

State Vs. Poor Singh and ors

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Court : Rajasthan Jodhpur

Decided On : Sep-10-2013

Appellant : State

Respondent : Poor Singh and ors

Judgement :

S.B. Civil Writ Petition No.2030/1995 State of Rajasthan V/s Pur Singh and ors.
Order dt:

10. 9/2013 1/3 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B. Civil Writ Petition No.2030/1995 State of Rajasthan V/s Pur Singh and ors.
Date of Order :::

10. h September, 2013 PRESENT HON'BLE Dr. JUSTICE VINEET KOTHARI
Mr.S.Bhandawat, for the petitioner. Mr.Sudhir Sharma, for the respondents. -- BY
THE COURT:

1. This old writ petition of the year 1995 is directed agaisnt the order of the Board of Revenue dtd.1.3.1993 passed in Appeal No.67/97/Ceiling/Barmer - Pur Singh and anr. V/s State whereby the learned Board of Revenue allowed the appeal. The learned Board of Revenue found that total land with the assessee/appellants was 66.5 standards acres, divided into 4 shares and each co-sharers gets 17 standars

acres of land, which was less than the ceiling area fixed for an individual under the law and therefore, the ceiling proceedings initiated by the learned Additional Collector was not justified and the appeal of the appellants Pur Singh and Narayan Singh, adopted son of Mangal Singh came to be allowed by the learned Board of Revenue.

2. The State challenged the said order by way of present S.B. Civil Writ Petition No.2030/1995 State of Rajasthan V/s Pur Singh and ors. Order dt:

10. 9/2013 2/3 writ petition, which was earlier decided by the learned Single Judge of this Court on 9.5.2001 by a short order in the following terms : There is no jurisdictional error in the order passed by the Board of Revenue. The petition filed by the State is, therefore, dismissed.

3. Further Division Bench appeal filed by the State came to be allowed and the matter was remanded back to the learned Single Judge vide order dtd.20.1.2011 when neither of the counsels were present before this Court. The order dtd.20.1.2011 reads as under: The order passed by the Single Bench is found to be devoid of reasons. How the mind has been applied, is not made clear by reading of the order. What was the controversy, is also not apparent. Consequently, we have no hesitation in setting aside the order dated 9.5.2001 passed by the Single Bench and remit the matter back to the Single Bench to decide the writ petition in accordance with law by a reasoned order. The appeal stands disposed of accordingly. Thus, the matter comes up again before this Court.

4. A perusal of the impugned order of the Board of Revenue shows that the Board of Revenue itself has not given detailed findings as to the shares of four persons and whether they were dependent of S.B. Civil Writ Petition No.2030/1995 State of Rajasthan V/s Pur Singh and ors. Order dt:

10. 9/2013 3/3 ancestral whose land in question was subjected ceiling proceedings of 66.5 standard acres or not and one adopted son Narayan Singh also and the mother as well as one son were available to such individual shares and even all 66.5 standard acres of land have not been discussed properly by the

learned Board of Revenue in the impugned order dtd.1.3.1993. Therefore, after hearing the learned counsels for the parties and upon perusal of the impugned order, this Court is of the opinion that the matter deserves to be remanded back to the learned Assistant Collector, Barmer for determination a fresh and returning the findings of facts in accordance with law.

5. The writ petition of the State is, therefore, allowed for statistical purposes and setting aside the order of the learned Board of Revenue dtd.1.3.1993 and the learned Additional Collector, Barmer dtd.16.9.1992 the matter is remanded back to the learned Additional Collector, Barmer for deciding Ceiling Case No.1/1985 - State of Rajasthan V/s Pur Singh afresh within a period of six months from today giving detailed findings in accordance with law. No order as to costs. A copy of this order be sent to the parties concerned and the learned court below forthwith. (Dr. VINEET KOTHARI), J.

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