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Hema Vs. the State of Raj. and ors.

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Court : Rajasthan

Decided On : Jul-13-1978

Reported in : 1978WLN(UC)301

Judge : S.C. Agrawal, J.

Appeal No. : S.B. Civil Writ Petition No. 542/72

Appellant : Hema

Respondent : The State of Raj. and ors.

Judgement :

S.C. Agrawal, J.

1. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner for the issue of a writ of certiorari to quash the order dated 23rd September, 1971 passed by the Additional Collector, Pali, whereby in exercise of his revisional powers under Rule 272 of the Rajasthan Panchayat and Nyaya Panchayat (General) Rules, 1961, the Additional Collector, Pali, allowed the revision petition filed by respondent No. 4 Premaram, against the order of the Gram Panchayat Khinwara, ordering sale of a plot of land in favour of the petitioner. The Additional Collector, Pali by his order aforesaid, set aside the said sale in favour of the petitioner. The order of the Addl. Collector Pali has been challenged by the petitioner in the writ petition on two grounds:

(1) The revision petition under Rule 272 of the Rules, was not maintainable against the order of the Gram Panchayat Khinwara ordering the sale of a plot of land in favour of the petitioner and only an appeal lay against the said order before the Panchayat Samiti.

(2) The petitioner was a necessary party in the revision petition and the impugned order dated 23rd September, 1971 was passed by the Addl. Collocutor, Pali, without giving any notice to the petitioner and said order was, therefore, passed in disregard to the principles of the natural justice.

2. No reply has been filed on behalf of the respondents in this writ petition.

3. In my view the writ petition has to be allowed and the order of the Addl. Collector, Pali, dated September 23, 1971 has to beset aside because the petitioner in whose favour the sale had been made by the Gram Panchayat and which sale was challenged by respondent No. 4 in revision ought to have been given a notice and should have been heard before the order in his favour could be set aside by the Addl. Collector, Pali. I would, therefore, set aside the order of the Additional Collector, Pali, dated 23rd September, 1971 and remand the matter back to the Additional Collector, Pali, for disposal of the revision petition of respondent No. 4 in accordance with the law. It will be open to the petitioner to raise objections as to the maintainability of the revision petition before the Additional Collector, Pali. There will be no order as to costs of this petition.

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