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Court : Rajasthan

Decided On : Dec-07-1981

Reported in : 1981WLN(UC)324

Judge : M.C. Jain, J.

Appeal No. : S.B. Civil Writ Petition No. 1914/1981

Appellant : Rawta Ram

Respondent : State of Rajasthan and ors.

Disposition : Petition dismissed

Judgement :

M.C. Jain, J.

1. Heard learned Counsel for the parties.

2. The grievance of the petitioner is that his land situated in Chak 2 NGD has been transferred to Chak 1 NGD without notice to him and the notice did not give the reasons thereof. As a result of such transfer the petitioner's right of irrigation has been seriously prejudiced. It maybe stated that the notices were issued to the cultivators of Chak 2 NGD. The petitioner has produced notice Ex. 2 and notice Ex. 3. The petitioner has no where averred in the petition that the petitioner had no knowledge of notice Ex.2. In the absence of such on averment it cannot be said

that the petitioner had no knowledge of the proceedings of the transfer of the tend of Chak 2 NGD to Chak 1 NGD and 3 NGD. In pursuance of the notice an order was ultimately passed by the XEN on 13-6-1980. The petitioner did not prefer any appeal against the order of the XEN Ex. 5. If the petitioner acquired knowledge of the order, he ought to have preferred an appeal with an application for condonation of delay, but admittedly this was not done and instead presented this writ petition. It is said that the petitioner submitted an application in appeal preferred by the other cultivators. That application can hardly be equated to an appeal, so it cannot be said that the petitioner had preferred any appeal before the Superintending Engineer against the order of the XEN. Besides that I have perused the impugned order. It appears that a decision had been taken for abolition of Chak 2 NGD in the interest of better irrigation. The XEN considered the intensity of the irrigation for the last three year's of the lands mentioned in para 2, while dealing with the case of Chak 2 NGD. The learned Counsel for the petitioner submitted that the intensity of irrigation has been considered of the period after filing of the application for abolition, of the Chak and the intensity of irrigation prior to 1976 has not been taken into consideration, The learned Counsel for the petitioner has not been able to show as to what was the percentage of the irrigation of the lands situated in Chak 2 NGD prior to the year 1976. In the evidence of such material it cannot be taken that the intensity of irrigation was much more than what has been stated by the XEN, The XEN has stated the intensity from 22% to 58%, whereas the prescribed intensity should have been 52%. Considering the low intensity of the percentage of the irrigation it has been considered essential that the, lands of Chak 2 NGD may be transferred to the adjoining two Chaks. This aspect has also been considered by the XEN that by this scheme the loss of water in the. Water course will also be minimized and the past experience in relation to amalgamation of another Chak in Chak 1 NGD and in Chak 1 LLW, was also noticed as by such an action there has been an increase in irrigation. The discharge of water from the out-lets will increase

3. The learned Counsel for the petitioner also pointed out that the petitioner's lands are at a higher level, but that too has not been substantiated On the 'contrary from the plan, which has been shown to me, it appears that the level of Chak 2 NGD is comparatively low from the level of Chak 1 NGD; Thus, the technical aspect has

been considered and no ease of any prejudice is made out by the petitioner.

4. In this view of the matter, in, my opinion, this writ petition has no force, so it is hereby dismissed summarily.

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