

Ram Narain Vs. Additional Collector Cum Secrejtary and ors.

Ram Narain Vs. Additional Collector Cum Secrejtary and ors.

SooperKanoon Citation : sooperkanoon.com/763443

Court : Rajasthan

Decided On : Nov-06-1992

Reported in : 1992WLN(UC)573

Judge : A.K. Mathur, J.

Appeal No. : S.B. Civil Writ Petition No. 3165 of 1987

Appellant : Ram Narain

Respondent : Additional Collector Cum Secrejtary and ors.

Judgement :

A.K. Mathur, J.

1. This writ petition as well as the writ petitions mentioned in Schedule A appended to this Order involve common question of law and fact, therefore, they are disposed of by this common order.
2. For the convenient disposal of these writ petition, the facts given in the case of Ram Narain v. Additional Collector-cum-Secretary, Mandi Samiti, Hanumangarh and Ors. (S.B. Civil Writ Petition No. 2165 of 1987), are taken into consideration:
3. The petitioner by this writ petition has prayed that by an appropriate writ, order or direction, the respondent No. 1 may be restrained from demolishing and dismantling the house of the petitioner situated in square No. 32/390 at Suratgarh.

4. The brief facts which are necessary for the disposal of this writ petition are that the petitioner did not possess any accommodation to live and he could not get any land allotted for the purpose of construction of his house. The petitioner occupied a portion of the land situated in square No. 32/390 in the year 1980. The size of the land was 100' '60. The petitioner is said to have raised construction at the cost of Rs. 55,000/-. It is submitted that originally, the land was within the jurisdiction of respondent No. 1. But, subsequently, by a notification dated 9.6.1976 the limits of Municipal Board, Suratgarh was extended and the land in question was taken out from the jurisdiction of Rajasthan Canal Project, Mandi Samiti, Suratgarh. A copy of the notification has been placed on the record as Ex. 1. It is submitted that the plot in question is in the southern side of the Government General Hospital, Suratgarh. The notice was issued by the respondent No. 1 in the year 1982 for eviction. Aggrieved against this a writ petition was filed by one of such persons, which came to be registered as S.B. Civil Writ Petition No. 2267/1982. This writ petition along with other similar writ petitions came to be dismissed by this Court as the Municipal Board, Suratgarh was not impleaded as a party to these writ petitions.

5. Now, again the present writ petition has been filed contending that the respondent No. 1 had no jurisdiction to issue the impugned notice as the area in question lies within the municipal limits of Municipal Board, Suratgarh, by virtue of the notification issued by the State Government dated 9.6.1976 in the purported exercise of Section 4 of the Rajasthan Municipalities Act, 1959 (referred to hereinafter as the Act of 1959).

6. No reply has been filed in this case, but a reply has been filed in another writ petition i.e. S.B. Civil Writ Petition No. 877/1985: Vijay Kumar v. Additional. Collector-cum-Secretary, Mandi Vikas Samiti, Hanumangarh and Ors. and it has been contended that the respondent No. 1 is competent to issue the notice of eviction to the petitioner as he is unauthorised occupant.

7. I have heard learned Counsel for the parties and perused the record.

8. The question before me is whether the petitioner's present construction lies within the jurisdiction of respondent No. 1 or respondent No. 2 Municipal Board,

Suratgarh.

9. The petitioner has submitted that it lies within the municipal limits of Suratgarh but in the return no proof has been provided so as to show that it lies within the jurisdiction of respondent No. 1. Only a letter of the Executive Officer, Municipal Board, Suratgarh has been produced to show that it lies within the jurisdiction of Mandi Vikas Samiti, Hanumangarh. This is a factual controversy. Whether the land in question lies within the limits of respondent No. 1 or the respondent No. 2 is a question of fact and it is not possible on the basis of the documents placed before me to decide as to whether the land in question lies within the jurisdiction of respondent No. 1 or respondent No. 2. The Collector, Sriganaganagar may ascertain the facts and if it is found that the land in question lies within the municipal limits of Municipal Board, Suratgarh then the Municipal Board, Suratgarh can proceed against the petitioner in accordance with law and if it is found that it lies within the jurisdiction of the Mandi Vikas Samiti, Hanumangarh then it will be open for the respondent Mandi Committee to proceed against the petitioner in accordance with law. Till this factual controversy is resolved the petitioner shall not be evicted. After resolving this controversy it will be open for either of the competent authority to proceed against the petitioner in accordance with law.

10. With these observations, this writ petition and the writ petitions mentioned in the Schedule A are disposed off.