

Sohan Singh Vs. Banta Singh and ors.

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Court : Rajasthan

Decided On : Jul-20-1977

Reported in : 1977WLN(UC)237

Judge : M.L. Jain, J.

Appeal No. : S.B. Civil Writ Petition No. 1370 of 1972

Appellant : Sohan Singh

Respondent : Banta Singh and ors.

Disposition : Petition dismissed

Judgement :

M.L. Jain, J.

1. Petitioner Sohanlal was allotted by the Sub Divisional Officer, Raisinghnagar, land on 1st May, 1967, in Chak No. 45 N.P. irrigated, on permanent basis as follows :

1. Square No. 27 25 Bighas Irrigated NP2. Square No. 12 4 Bighas -do-3. Square No. 29 6 Bighas -do-

2. Banta Singh and Mahedra Singh respondents filed review petitions before the Collector against this allotment Bantasingh's contention was-that 6-1/2 Bighas of

land in square No. 29 is adjacent to his field. Mahendrasingh contended that 4-1/2 Bighas of land in Square No. 12 was contiguous to his field. The Rajasthan Colonization (Gang Canal Lands Permanent Allotment and Sales) Rules, 1956, by Rule 3, provide for eligibility and priority for allotment of land in the Gang Canal area Sub-rule (2) of Rule 3, however laid down that small patches of land not exceeding 7 Kill as may be sold to a person holding land in the same square, if the person pays the present prevailing market price in one instalment. The respondents contended that under this provision, they were entitled to allotment in place of the petitioner. Their second contention was that the petitioner was not entitled to allotment as he was not a person who was cultivating land since before 1947. The Girdawaries submitted by the petitioner to support his eligibility that he was cultivating land since 1947-48, were forged ones. The third contention was that no person can be allotted land in excess of 50 Bighas. The Sub Divisional Officer has allotted the petitioner about 36 Bighas of land, while he had also inherited land from his deceased father, to wit, 24 1/2 Bighas and thus his total holding will exceed 50 Bighas.

3. The Collector Sri Ganganagar by his order dated 9th September, 1969, rejected the review petitions. The learned Collector was of the view that the respondents were interested in the allotment of the small patches but he rejected their other two contentions that the land holding of Sohansingh will exceed 50 Bighas because in the lands, left by his father share was only 8 Bighas. He also declined to hold that the Girdawaries for the years 1947-1950 submitted by the petitioner Sohansingh were forged. The respondents being dissatisfied with the decision of the Collector filed a revision before the State Government. The Deputy Secretary (Colonization) by his order dated 21st April, 1974, accepted the revision and cancelled the allotment made in favour of the petitioner SohanSingh in Square No. 12 and Square No. 29. He directed that both the patches of land should be allotted according to the relevant rules. While making the aforesaid order he also commented that the Girdawaries produced by Sohan Singh could be forged ones and that Sohan Singh petitioner was guilty of furnishing wrong information within the mean-in? of Section 11 of the Rajasthan Colonization Act, 1954. The petitioner now prays that this order may be set aside and the allotments of land in Square Nos. 12 and 29 in his favour be upheld.

3. I have heard the argument of the learned Counsel for the petitioner. At the outset it may be stated that the learned Counsel had not challenged before this Court the jurisdiction of the State Government to hear revision in the case. No such question was raised before the Deputy Secretary either. His main contention is that the Deputy Secretary has committed an error of law by hearing the respondents who had no locus standi in as much as they had made no application for allotment of land under Rule 5 of the aforesaid rules. This rule requires that application for allotment should be made before February 28, 1959. The respondents have nowhere stated that they had made such an application. They did not even appear and raise any objections when the Sub Divisional Officer served notices inviting objections against proposed allotment. He further contends that the Deputy Secretary was wrong in holding that the Girdawaries could be forged when the Collector was not prepared to hold it as a fact that they were so forged.

5. It must be stated that the Deputy Secretary has not cancelled the order the Collector on the basis of the Girdawari. He had done so only on the basis of Sub-rule (2) of Rule 3 of the aforesaid rules. Therefore, his remarks in respect of the Girdawaries do not vitiate his decision. As regards the locus standi of the respondents, there is no allegation in the writ petition or the affidavit that the respondents made no application for allotment. No such allegation was made before the Collector or even before the Deputy Secretary. It is only for the first time in the arguments before this Court that the learned Counsel for the petitioner has raised this objection which can not be permitted to be raised at this stage. As regards the failure to raise objections, in the replies of the State Government and the Sub Divisional Officer, Raisinghnagar, it has been stated that no notice was given to any body by the Sub-Divisional Officer. Therefore, there could be no question of any objection being raised by the respondents, when the Sub Divisional Officer himself stated that he served no notice. It is obviously a disputed question of fact whether any notice for objection against the proposed allotment was issued or not and cannot be gone into by this Court.

6. I, therefore, find no force in any of the arguments of the learned Counsel for the petitioner and do not see any ground for issue of writ of certiorari. The petition is

accordingly dismissed. There shall be no order as to costs.

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