

W.R.

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

Revision No.1048/2002/LR/Alwar :

1. Sube Singh S/o Rattiram
 2. Abhay Singh S/o Rattiram (Deceased), represented by :-
 - 2/1. Krishna Devi W/o Abhay Singh
 - 2/2. Rajesh S/o Abhay Singh
 - 2/3. Sonu S/o Abhay Singh
 3. Veer Singh S/o Rattiram
 4. Vimla
 5. Shobha Devi
 6. Krishna Devi
 7. Surji widow of Rattiram
- All Aheeran by caste, residents of Village Alamdeenka, Tehsil Kishangarhbas, District Alwar.

... Revisionists.

Versus

1. Ramniwas
 2. Rajendra
 3. Prithviraj
 4. Surendra
 5. Bhagwati widow of Narain Singh
 6. Chandrawali
 7. Ramla
 8. Somati
- All by caste Aheer, residents of Village Palava, Tehsil Mundawar, District Alwar.

... Respondents.

9. Asha Devi D/o Rattiram, by caste Aheer, resident of Village Alamdeenka, Tehsil Kishangarhbas, District Alwar.

... Proforma-Respondent.

S.B.

Shri Rajinder Kumar, Member

Argued by :

Shri Mukesh Jain : counsel for the revisionists.

Shri Yogendra Singh : counsel for the respondents.

J U D G M E N T**Dated : 12.11.2018**

1. This revision petition under section 84 of the Rajasthan Land Revenue Act, 1956 is directed against the judgment dated 26.11.2001 of the learned Additional Divisional Commissioner, Jaipur passed in Appeal No. 122/2000.
2. The facts in brief are that the disputed land was the khatedari land of the deceased Rattiram. After his death, mutation of the disputed land was sanctioned in favour of his nature heirs i.e. the revisionists herein by the Gram Panchayat, Palava on 09.9.1997. The respondents were not satisfied with the said mutation order, therefore, they preferred an appeal in the court of Sub Divisional Officer, Kishangarhbas (Alwar), which came to be accepted on 29.6.2000 setting aside the order dated 09.9.1997 of the Gram Panchayat and the matter was remanded to the Tehsildar, Mundawar for disposal of mutation proceedings after making detailed inquiry in the matter. The revisionists preferred appeal against the order of S.D.O. in the court of Additional Divisional Commissioner and vide judgment dated 26.11.2001, the said appeal was dismissed. Hence, this revision petition.
3. I have heard learned counsels for the parties.
4. On behalf of the revisionists, it has been argued that the revisionists are the natural heirs of the deceased Rattiram. In his lifetime, the deceased Rattiram did not execute any agreement of sale in favour of the predecessor of the respondents, namely, Narain Singh. After the death of Rattiram, the revisionists are in possession of the disputed land as its khatedars. However, the learned S.D.O. illegally accepted the appeal of the respondents. Till date, no suit for specific performance of agreement has been filed by the respondents. Mutation proceedings are fiscal proceedings which neither create nor extinguish the title of any party. Therefore, both the courts below illegally set aside the order of Gram

Panchayat without considering the factual and legal aspects of the case. The Additional Divisional Commissioner has gone beyond its jurisdiction by observing that the mutation proceedings must be stayed till the disposal of the civil and revenue cases pending between the parties. There is no material on record to indicate that any such civil suit or revenue suit is pending in any court between the parties. Therefore, a prayer has been made to accept the revision petition and set aside the impugned orders of the courts below and to maintain the order dated 09-09-1997 passed by Gram Panchayat .

5. Learned counsel for the respondents vehemently opposed the above submissions. He has stated that there is a bonafide dispute between the parties regarding the disputed lands. The revenue/ civil litigation is pending between them and therefore the learned Additional Divisional Commissioner has rightly passed the impugned order to keep in abeyance the mutation of the land of deceased Rattiram.
6. I have given my thoughtful consideration to the above submissions and carefully perused the record.
7. In this case, there is a contest between the legal representatives of the deceased khatedar and the legal representatives of vendee of the disputed land. The Tehsildar has sanctioned mutation in favor of the legal representatives. The first appellate court has set aside the said order and directed the Tehsildar to conduct an enquiry in the matter. The Additional Divisional Commissioner has gone a step further by keeping the mutation in abeyance till culmination of civil and revenue suits pending between the parties. It is trite law that the moment a person dies intestate, his legal heirs succeed to his estate. Thus, succession never remains in abeyance. Likewise, the mutation proceedings cannot be kept in abeyance, which are carried out only for fiscal purposes. The mutation entry by itself neither creates a title in favor of a person nor does it extinguish the other person's rights.

8. So far as agreement to sell is concerned, it also creates no title in favor of the vendor or his legal representatives. The proper course for the vendee or his legal representatives is to first obtain a decree of specific performance of contract from the civil court and only thereafter, they can make legal claim over the disputed land.
9. Therefore, the order dated 9.09.1997 passed by the Tehsildar sanctioning mutation in favor of the revisionists was legal order and there was no occasion to pass an order of making any enquiry in the matter or keeping the mutation proceedings in abeyance. The orders, therefore, passed by the S.D.O. and the Additional Divisional Commissioner are illegal and require interference by this Board. It is, however, made clear that the order of the Tehsildar dated 9.09.1997 would be subject to the judgments of the Revenue and Civil courts regarding the rights of the parties.
10. Resultantly, the revision petition succeeds and the impugned judgments dated 29.06.2000 and 26.11.2001 are set aside and the order dated 09.9.1997 of Gram Panchayat, Palava is maintained subject to the aforesaid observations.

Pronounced.

(Rajinder Kumar)
Member

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