

**W.R.**

**IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER**

**Appeal/Ceiling/5423/2002/Kota**

Kanhiyalal s/o Sh. Gopal, Caste Meena r/o Village Aaton Tehsil Deegod  
Distt. Kota

**.....Appellant.**

VERSUS

1. Nathulal s/o Sh. Chittar Lal, Caste Bairva r/o Village Sultanpur Tehsil Deegod Distt. Kota.
2. Smt. Para Bai wd/o Sh. Chittar Lal, Caste Bairva r/o Village Sultanpur Tehsil Deegod Distt. Kota.
3. Smt. Janki Bai d/o Sh. Chittar Lal, Caste Bairva, r/o Village Khedli (Tharla) Tehsil Deegod Distt. Kota.
4. State of Rajasthan.

**.....Respondents.**

**S.B.**

**Shri Rajinder Kumar, Member**

**Argued by:-**

Shri Raghvendra Singh, counsel for the Appellant.

Shri Mukesh Jain, counsel for the Respondent no. 1 to 3.

Shri Sunil Pareek, Dy. Govt. Advocate for the Respondent no. 4.

**JUDGMENT**

**Date:** 31-07-2018

1. This appeal has been preferred under section 23 (2) of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 against the order dated 6-08-2002 of District Collector, Kota, whereby first appeal of the appellant was dismissed.
2. The facts of the case, as narrated in Memo of Appeal, are that the Land Allotment Consultation Committee in its Camp held on 14-01-1982 in Village Kishorepura Tehsil Deegod allotted land of

khasra no. 52 (measuring 5 bigha 2 biswa) of Village 'Jakhrod' to Shri Chittar Lal, whereas the allottee in collusion with Revenue Authorities started interfering in the peaceful possession of the appellant over his khatedari land of khasra no. 52 (measuring 5 bigha 2 biswa) situated in Village 'Aaton'. Therefore, the appellant filed first appeal in the court of District Collector, Kota, challenging the order of allotment of land in favor of Chittar Lal, which came to be dismissed vide order impugned herein. Hence this second appeal by the appellant.

3. I have heard learned counsels for the parties.
4. On behalf of the appellant, it was urged that the order of allotment of land to Shri Chittar Lal (since deceased) and order of first appellate court are contrary to factual and legal position. As the land of Village 'Jakhrod' was allotted to Shri Chittar Lal, the revenue authorities had no jurisdiction to interfere into the peaceful possession of the appellant over his land situated in Village 'Aaton'. The appellant came to know about the issuance of allotment order in favor of Chittar Lal only in the year 1993 and immediately thereafter he preferred first appeal, which was wrongly dismissed as time barred. The deceased Chittar Lal and his LRs have never remained in physical occupation of the land of khasra no. 52 of Village 'Aaton', therefore, the impugned orders are patently perverse. It was also argued that in the file of ceiling of surplus area, it is specifically mentioned that the land of Village 'Jakhrod' had been declared surplus by the Appropriate Authority. The land of Village 'Aaton' was not declared surplus. This fact could be verified from the file of ceiling proceedings but the learned first appellate court did not care to summon and peruse the relevant record. Even in the Jamabandi also, the name of the father of the appellant has been deleted without any reasons and

the said land was wrongly entered as *Siwaichak*. The first appellate court also ignored the above stated facts and passed the impugned judgment in a very casual manner. Therefore, a request was made to accept this appeal and to set aside the impugned order.

5. Learned counsel for the appellant has also submitted written arguments mentioning the facts detailed above.
6. Learned counsel for the respondent no. 1 to 2 vehemently opposed the above submissions. According to him, the land of Village 'Aaton' was allotted to Chittar Lal whereas the word 'Jakhrod' was inadvertently mentioned in the allotment order. Therefore, the learned first appellate court dismissed the appeal after making correct appreciation of evidence on record. On behalf of the appellant, it was not argued in the court below that the land of Village 'Aaton' was not declared surplus. The arguments raised in this behalf by learned counsel for the appellant cannot be appreciated for the first time in this second appeal.
7. Learned Government Advocate also opposed the submissions of learned counsel for the appellant. He has supported the impugned order.
8. I have given my thoughtful consideration to the rival submissions and perused the record carefully.
9. It is revealed from record that the deceased Chittar Lal claiming himself to be a landless person submitted an application under section 101 of Rajasthan Land Revenue Act, 1956 for allotment of land of khasra no. 52 (measuring 5 bigha 2 biswa). On the back of this application, it is mentioned by Halka Patwari that the applicant Chittar Lal seeks allotment of land of Village 'Aaton'. It is

apparent that the word 'Aaton' in the report of Patwari was mentioned after striking out the word 'Jakhrod'. Below the report of Halka Patwari, there is an order of Land Allotment Committee, wherein it has been mentioned that the land of Village 'Jakhrod' comprising khasra no. 52 (measuring 5 bigha 2 biswa) is allotted to Chittar Lal. On the next page, there is a report about delivery of possession of the land to Chittar Lal. In that report, the signatures/thumb impressions of the allottee Chittar Lal, Halka Patwari, Kanungo and witnesses would appear. In this report, it has been specifically mentioned that the possession of land bearing khasra no. 52 of Village 'Aaton' has been delivered to Chittar Lal. Therefore, it becomes clear that in the report of Halka Patwari and in the allotment order, the name of Village 'Jakhrod' was inadvertently mentioned. Though the Halka Patwari made correction in his report by striking the word 'Jakhrod', the said mistake could not be corrected in allotment order.

10. The possession of land of Village 'Aaton' was delivered to the deceased Chittar Lal on 11-06-1982. Had the appellant been in actual physical and cultivatory possession of the disputed land of Village 'Aaton', he might have immediately made a protest before the concerned Authority or he might have filed appeal against the order of allotment of above land to Chittar Lal. On the contrary, the first appeal was filed by him in the year 1993. It also shows that the appellant Kanhaiya Lal was not in actual physical occupation of the land in dispute at the time of delivery of possession to Chittar Lal. In these circumstances, first appeal was hopelessly time barred. The finding of the first appellate court in this regard are neither perverse nor contrary to law.
11. Although an attempt was made by learned counsel for the appellant to challenge the findings of learned first appellate court

stating that the land of Village 'Aaton' was not declared surplus but this point was not raised by the appellant before the first appellate court in memo of appeal or in the arguments. Even in the memo of second appeal, this point has not been raised by the appellant. Therefore, the above question of fact cannot be permitted to be canvassed at this belated stage.

12. It is revealed that disputed land was allotted by the Allotment Committee after the conclusion of acquisition proceedings and the appellant did not challenge the acquisition proceedings before the appropriate authority. In this way, the appeal filed by appellant only challenging the allotment order, without first challenging the acquisition proceedings was not tenable on merits also.
13. The learned first appellate court, after examining the matter in its entirety committed no mistake in dismissing the first appeal. Hence, this second appeal lacks merit.
14. Consequently, the appeal in hand stands dismissed.

Pronounced.

(Rajinder Kumar)  
Member