

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

1. Appeal/TA/3181/2003/Jhalawar.

1. Narayan) sons of Kanwar Lal caste Kirad residents of
 2. Manna Lal) village Deoli Tesil Aklera Distt. Jhalawar.
 3. Gopal)
 ...Appellants.

Versus

Mehtab son of Kishna caste Kirad resident of village Deoli Tehsil
 Aklera Distt. Jhalawar.
 ...Respondent.

2. Appeal/TA/3182/2003/Jhalawar.

Manna son of Kanwar Lal caste Kirad resident of village Deoli Tehsil
 Aklera Distt. Jhalawar.
 ...Appellant.

Versus

Mehtab son of Kishna caste Kirad resident of village Deoli Tehsil
 Aklera Distt. Jhalawar.
 ...Respondent.

D.B.

**Shri V. Srinivas, Chairman
 Shri Rajinder Kumar, Member**

Present:-

Shri Mukesh Jain, counsel for the appellants.
 Shri Khadag Singh, counsel for the respondent.

J U D G M E N T

Date : 11-6-2018

1. Both these second appeals have been preferred under section 225 of the Rajasthan Tenancy Act, 1955(hereinafter referred to as 'the Act of 1955) against the judgments and decrees dated 2.5.2003 of the Revenue Appellate Authority, Kota passed in first appeal No. 226/2002 and 228/2002, whereby the learned first appellate court

remanded the cases to the trial court of Sub-Divisional Officer, Aklera for deciding the same afresh after recording evidence of both the parties.

2. In brief, the facts leading to the present controversy are that two revenue suits came to be filed in the trial court. The first suit No. 1513/96 was filed by the appellants Narayan and others against the respondent Mehtab under section 88, 89, 91 and 188 of the Act of 1955 for declaration in respect of the land bearing khasra No. 187 measuring 1 bigha 14 biswas situated in village Deoli Tehsil Aklera. This land was purchased by the plaintiffs/ appellants from Smt. Gendi Bai for a sale consideration of only Rs. 99/- and possession of the land was also handed over to them by the seller. After the death of Smt. Gendi Bai, the suit land was entered in the name of her son, namely, Mehtab. On the basis of revenue record, the defendant Mehtab started interfering into peaceful possession of the plaintiffs/ appellants. Therefore, a request was made to restrain the defendant by way of permanent injunction from interfering into peaceful possession of the appellants/ plaintiffs. The second suit No. 1544/1996 was filed by the respondent/ defendant Mehtab against the appellant Manna under section 183 and 188 of the Act of 1955 alleging therein that the suit land was given by him to the appellant Manna Lal for cultivation and for the last two years, he is not paying share of crops to him, thus, the appellant is occupying the suit land in illegal manner. Therefore, a request was made to get the appellant dispossessed from the suit land and for delivering its possession back to the respondent/ plaintiff.

3. The learned trial court framed as many as six issues and after recording the evidence of both the parties, suit No. 1513/96 was decreed whereas suit No. 1544/96 was dismissed vide judgment and decrees dated 26.8.2002. Feeling aggrieved against the said judgment and decrees the respondent Mehtab preferred two separate appeals No. 226/2002 and 228/2002 in the court of Revenue Appellate Authority, Kota, which were partly accepted vide judgment and decree dated 2.5.2003, whereby the judgments and decrees of the learned trial court were set aside and the cases were remanded to the trial court as aforesaid.

4. Hence, these two appeals have been preferred by the present appellants before this Board.

5. Learned counsel for the appellants has vehemently argued that the suit land was purchased by the appellants on 26.6.1971 by unregistered sale deed from Smt. Gendi Bai for a sale consideration of Rs. 99/-. The learned Sub-Divisional Officer, Aklera decreed the suit filed by the appellants and declared them as the khatedar tenants of the disputed land. The learned Revenue Appellate Authority reversed the findings of the learned trial court on flimsy grounds. As the disputed property was sold for a sale consideration of Rs. 99/-, the sale deed does not require registration. There is ample evidence on record to prove the possession of the appellants over the suit land. Therefore, the findings of reversal recorded by the learned Revenue Appellate Authority are not tenable. The defendant/ respondent has also failed to prove his case that the plaintiffs/ appellants are occupying the land in illegal manner. On the basis of the material produced on record, the appellants have proved their case. Therefore, the orders of the learned Revenue Appellate Authority in remanding the cases to the trial court are manifestly wrong and require interference by this Board.

6. Learned counsel for the respondent has opposed the above submissions. It has been argued that in the sale deed, the khasra number of the land in dispute are not mentioned, therefore, the said document is forged one. No rights have accrued in favour of appellants vide the said document. Therefore, the impugned judgments and decrees are perfectly justified and require no interference.

7. We have given thoughtful consideration to the rival submissions and perused the records carefully.

8. It is revealed from the record that the plaintiffs/ appellants did not produce any witness to prove the execution of sale deed Ex.-1. Regarding possession also, no reliable evidence was led by them. The respondent/ defendant also failed to substantiate his pleadings by producing trustworthy evidence. Therefore, the learned Revenue

Appellate Authority was perfectly justified in remanding the cases to the trial court of Sub-Divisional Officer, Aklera for taking evidence of the parties pertaining to their pleadings. No illegality is found in the impugned judgments and decrees of the Revenue Appellate Authority, Kota. No question of law, much less substantial question of law is involved in these appeals.

9. Therefore, both these appeals are hereby dismissed.

Pronounced.

(Rajinder Kumar)
Member

(V. Srinivas)
Chairman