

**BOARD OF REVENUE FOR RAJASTHAN, AJMER**

**Appeal/LR/2004/4740/Karauli**

1. Shriphool
2. Ramphool - sons of Shivilal
3. Lajjaram son of Sonya
4. Hansram son of Pothilal
5. Charan son of Raghunath by caste Meena resident of Bhoder Tehsil and District Karauli
6. Malua son of Bherolal by caste Gurjar resident of Bhoder Tehsil and District Karauli

...Appellants

Versus

The State of Rajasthan through Tehsildar Karauli

...Respondent

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**S.B.**

**Shri Ravi Dangi, Member**

Present :-

1. Shri J.K.Pareek, Counsel for the appellants
2. Shri Lokendra Singh Ranawat, Dy. Government Advocate for the State

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**JUDGMENT**

**Dated 07-12-2020**

This second appeal has been filed under Section 76 of the Rajasthan Land Revenue Act, 1956 against the order of the Revenue Appellate Authority, Sawai Madhopur dated 27.05.2004 in the Appeal No.25/04.

2. Factual matrix in nutshell is that the Tehsildar Karauli on the application of the public by and large, made out a case under Section 89(7) of the Land Revenue Act, 1956 of illegal extraction of stones in gram Bhinder Aaragi khasra no.734 rakba 670 Bigha 8 Biswa gair Mumkin Pahar where on the spot an 'anikat' is present near which illegal mining and extraction of stone was being done by the present appellants. Relying upon the report of the Patwari and I.L.R. for this illegal extraction the trial court imposed a penalty of

Rs.1,45,640/- @ Rs.40/- per Ghan feet under section 89(7) of the Rajasthan Land Revenue Act, which was upheld by the first appellate court.

3. Heard the learned counsels.

4. The counsel for the appellants vehemently argued that both the courts did not appreciate the facts and the legal proposition correctly. The appellants were labours on the allotted area of one Shri Madan Mohan. The penalty levied is also not as per the law i.e. not as per Section 89(7) of Rajasthan Land Revenue Act, 1956.

5. Per contra the Dy. Government Advocate for the respondent argued that as per the Patwari and the ILR reports illegal extraction of stones was done by the appellants and the stones were recovered from them. The concurrent judgments of the courts below are just and proper and as per the law.

6. I have given my thoughtful consideration to the rival submissions and perused the record.

7. That as the appellants were found illegally extracting stones from the government land and on the complaint of the public, Tehsildar took legal action and recovered the stones. However, in my humble opinion the amount levied was not as per the provision of Section 89(7) of Rajasthan Land Revenue Act, 1956.

Section 89(7) of Rajasthan Land Revenue Act, reads as follows :-

**89. Right of minerals, mines, quarries and fisheries –**

**(7) Any person who without lawful authority extracts or removes minerals from any mine or quarry, the right to which vests in and has not been assigned by the State Government, shall without prejudice to any other section that may be taken against him be liable, on the order in writing of the Collector to pay a penalty not exceeding a sum calculated at the rate of fifty rupees per ton, or a fraction thereof, of the minerals so extracted or removed: Provided that if the sum so calculated is less than one thousand rupees, the penalty may be such larger sum not exceeding one thousand rupees as the Collector may impose.**

As per section 89(7) of Rajasthan Land Revenue Act, the maximum penalty which can be imposed is @ Rs. 50 per ton. However, in the matter the penalty imposed was @ Rs.40 for 3641 'Ghan foot'. There is no contrary material available on record to interfere in the concurrent finding of facts of the courts below, but only the amount has been calculated in terms of 'ghan feet' instead of per ton. Thus, the matter needs remanded to the trial court on the limited point of calculating the penalty in terms of per ton instead of Ghan feet.

8. Therefore, the appeal is partially accepted and the matter is remanded to the trial court on the limited point of calculating the penalty in terms of ton instead of 'Ghan foot'.

Pronounced in the open court.

(Ravi Dangi)  
Member