

W.R.

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

1. Appeal/LR /5528/2004/Dausa.

Badri s/o Girdhari, Caste Meena r/o Kali Pahadi, Tehsil and Distt. Dausa.

... **Appellant.**

Versus

1. Rughnath s/o Hanuta, Caste Meena r/o Kali Pahadi, Tehsil and Distt. Dausa.
2. State of Rajasthan.

.....**Respondents.**

2. Appeal/LR /1498/2005/Dausa.

State of Rajasthan through Tehsildar Dausa.

... **Appellant.**

Versus

1. Rughnath s/o Hanuta.
2. Badri s/o Girdhari
All Meena by caste, rs/o Kali Pahadi, Tehsil and Distt. Dausa

.....**Respondents.**

S.B.

Shri Rajinder Kumar, Member

Argued by :

- 1) Shri Pushpendra Singh Naruka, Deputy Govt. Advocate for the State Govt.
- 2) Shri Onkar Lal Dave, counsel for the Appellant Badri.
- 3) Shri Hemant Sogani, counsel for the respondent Rughnath.

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J U D G M E N T

Dated: 28-11-2018

1. These appeals seek to challenge the judgment dated 28.10.2004 of the learned Settlement Officer-cum-Revenue Appellate Authority, Jaipur camp

Dausa whereby the appeal no. 80/03 filed by the respondent Rughnath was accepted.

2. Facts leading to the filing of the revision petitions in nutshell are that on the recommendation of the Land Allotment Committee, the Sub-Divisional Officer Dausa allotted land bearings khasra no. 1887 (measuring 0.50 Hectare) to the respondent Rughnath on 29.06.1999. Feeling aggrieved against the said allotment, an application was filed by the appellant Badri in the court of the District Collector, Dausa for cancellation of the said order, mainly on the following grounds:-
 - (a) that proclamation for allotment of land was not issued as per the Rules.
 - (b) that the land in dispute was not available for allotment.
 - (c) that the quorum of the Land Allotment Committee was not complete.
 - (d) that the allottee is not covered in the category of "landless person".
 - (e) that the allottee has sought allotment of land by concealing facts regarding his khatedari lands.
 - (f) that after the allotment, the allottee has not made compliance with the allotment rules.
 - (g) that the allottee is not in actual physical possession over the disputed land.

The learned District Collector, Dausa after hearing the parties cancelled the order of allotment of the said land on the grounds that the allottee was holding 33 bigha land prior to allotment and on three previous occasions also, he had been allotted land. It was also observed by the District Collector in his judgment that in his application the allottee did not make any mention of the lands held by him. The Halka Patwari also gave a wrong report that the allottee is holding 1.98 hectare land whereas he was holding 3.68 hectare land at the relevant time. Therefore, the District Collector Dausa initiated disciplinary proceedings under Rule 11 of the CCA Rules, 1958 against the Halka Patwari, in addition to cancelling the allotment order. Feeling aggrieved against the order of the District Collector, Dausa, the respondent Rughnath filed an appeal in the court of

Settlement Officer-cum-Revenue Appellate Authority Jaipur camp Dausa, which was accepted vide the impugned judgment maintaining the order of allotment of land made in his favor. Hence these two appeals have been filed by the State Government and the appellant Badri.

3. I have heard learned counsels.
4. On behalf of the appellants, it was urged that the learned Revenue Appellate Authority has given a wrong finding that the respondent was holding 11 bigha land at the relevant time whereas his total holding was 33 bigha. After allotment of land in dispute, the possession was not handed over to the allottee and he had also not made compliance with the allotment order. No proclamation was issued by the competent Authority prior to allotment. The allottee concealed facts about his holdings in application for land allotment, therefore, on this ground alone his allotment was liable to be cancelled. A person can not be allotted land more than one time and in this case, the allottee did not make a mention in his application that previous to this allotment, he had been thrice allotted land by the competent authority. In this way the learned District Collector, Dausa committed no illegality in cancelling the order of allotment. However, the learned first appellate authority made illegalities in calculating the lands held by the respondent. A prayer was made to accept both these appeals and to set aside the judgment dated 28.10.2004 of the first appellate court.
5. Learned counsel for the allottee/respondent vehemently opposed the above submissions. He argued that the learned District Collector committed factual mistakes and illegalities in passing the judgment. The learned Appellate Court has rightly upheld the order of allotment of land made in favor of the respondent.
6. Having given consideration to the rival submissions and upon perusal of record, it is revealed that a bonafide agriculturist, who holds land less than 15 bighas is considered as a land-less person. The lands hold by the said

agriculturist under temporary cultivation lease are not included to his total holding. In the impugned judgment, the learned Revenue Appellate Authority has observed that after excluding the land held by the respondent under temporary cultivation, the total land held by him on the date of application for permanent allotment was less than the stipulated 15 bighas land. The said observations of the learned Appellate Authority are based on correct calculation of the total land held by the respondent.

7. In similar circumstances, where the land was situated in some other District, the Hon'ble Rajasthan High Court in 1992 (1) RLW 1 'Makhan Singh Vs State of Rajasthan' has held thus:-

"Section 11 of the Act, 1954 becomes operative if the petitioner would have given false information intending or having reason to believe, the authority, may be deceived regarding his qualification to become a tenant then only he shall be deemed to have committed a breach of condition of his tenancy. Present is not a case of giving any false information but omission to give some relevant information. It also does not effect the petitioner's qualification to become a tenant, therefore, in our opinion, section 11 could not have been invoked in the present case and consequently section 14 will also not apply because it is not a case of breach of condition after allotment of the permanent lease."

In view of the above legal position, mere omission to give relevant information regarding the land held by the respondent would not make him disqualified for allotment of land and consequently, it could not be regarded as a case of breach of condition after allotment of land.

8. Though, it was vehemently argued on behalf of the appellants that the respondent was not entitled to allotment of land as on previous occasions also land was allotted to him. But the learned counsels for the private

appellant and the learned Deputy Government Advocate were unable to cite any legal provision to show that a person cannot be allotted land more than one time, notwithstanding that his total holding is less than the prescribed norms. Even if it was so, the allotment authority ought to have taken care of this aspect at the relevant time. In the Rajasthan Colonisation Act, 1954 and in the relevant Rules, there is no provision that if a land is allotted to any person more than once, his subsequent allotment may be cancelled by the concerned authority on that ground alone.

9. In the impugned Judgment, the learned Revenue Appellate Authority Jaipur camp Dausa has given cogent reasons for taking a view different from the view taken by the learned District Collector, Dausa. The said appellate authority has come to his independent finding in holding that there was no infirmity in the order of allotment of land to the respondent Rughnath.

10. Therefore, I do not see any illegality in the impugned judgment.

11. Resultantly, both these appeals are dismissed.

Pronounced.

(Rajinder Kumar)
Member