

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

APPEAL DECREE NO.2680/2005/TA/NAGOUR

1. Mehram
 2. Purkharam
 3. Asharam
 4. Gangaram
 5. Ugma
 6. Kesha
 7. Mst. Chima Wd./o Shri Budharam
- } sons of late Shri Budharam S/o Shri Kishna
- All are by caste Jat, residents of Village Bhundel,
Tehsil Khinvsar, District Nagaur.

... Appellants.

Versus

1. State of Rajasthan, through Tehsildar Khinvsar, District Nagaur.
2. District Collector, Nagaur.

... Respondents.

Division Bench

Shri Sanuj Kulshrestha, Member
Shri Madan Lal Nehra, Member

Present :

Shri S.P. Singh : counsel for the appellants.

Shri Srinivaas Beniwal : counsel for the respondents.

Dated : 06.02.2026

J U D G M E N T

(I) GENESIS OF APPEAL :-

This second appeal has been filed under section 224 of the Rajasthan Tenancy Act, 1955 (hereinafter to be referred as "the Act") against the judgment & decree passed by learned Revenue Appellate Authority, Nagaur dated 14.3.2005 in Appeal No. 1/2004.

(II) BRIEF FACTS :-

1. The plaintiffs/ appellants filed a suit before Assistant Collector, Nagaur for correction of records, declaration of tenancy rights, and permanent injunction, stating that in village Bhundel land bearing khasra number 163 area 283 bigha 6 biswa, belonged to Dolidar Ambadan Charan etc., as tenants and Kisna-Jat as kashtkar. By lapse of time, khasra no. 163 was given new khasra nos. 217, 218, 219. After the death of Kishnaram, his two sons viz. Buddharam, present appellants' father and Gangaram got the khatedari in equal share. 20 bigha 12 biswa of this land bearing present khasra number 218 was in the possession of the plaintiffs' grandfather Kishanaram. Due to his possession on the said land, the plaintiffs' grandfather became a tenant. However, the settlement department declared this land as "Gair Mumkin Oran". The plaintiff objected, but no action was taken.

2. Since this land was considered government land, proceedings for eviction and recovery of fine were being initiated against the plaintiffs under Section 91 of the Rajasthan Land Revenue Act. Therefore, the suit was filed by the plaintiffs to declare them to be the tenant of the disputed land.

3. The plaintiffs/ appellants were cultivating on disputed land bearing present khasra No. 218 area 20 bigha 12 biswa and in possession since 55 years and that is why they had got khatedari rights by operation of law as per Section 10 of the Jagir Act and Sections 13 & 15 of the Rajasthan Tenancy Act, 1955. Out of new khasra Nos. 217, 218 and 219, khatedari rights were given to Budhharam (appellants' father) and Gangaram for khasra Nos. 217 and 219 area 262 bigha, but the land of present khasra No. 218 area 20 bigha 12 biswa was declared 'gair mumkin oran' which is in the centre of appellants' land of khasra Nos. 217 and 219. Therefore, mere 20 bigha 12 biswa land in the middle of the khatedari lands cannot be declared as 'gair mumkin oran' as per law. Tehsildar, Khinvsar submitted his report on 14.7.1998 which cannot be overlooked.

4. The Assistant Collector, Nagaur vide his judgment & decree dated 09.10.2003 dismissed the suit of the plaintiffs, against which an appeal was filed in the court of learned Revenue Appellate Authority, Nagaur, who vide his order dated 14.3.2005 also dismissed the appeal. Aggrieved against the order dated 14.3.2005, this second appeal has been preferred in this court.

(III) ARGUMENTS OF THE PARTIES/ COUNSELS :-

1. The learned counsel for the appellants reiterated the facts mentioned in the appeal memo and argued that the court below wrongly dismissed the case by considering the disputed land as "Oran." The present khasra number 218 was previously khasra number 163. This land was part of the Jagir (Estate) of Ambadan Charan. The appellants argued that their tenancy land surrounds this land on all three sides. This land is neither "Oran" on the ground nor is it for public use. The subordinate court dismissed the case based on conjecture and their claim is supported by evidence and also by the report of the Site Commissioner. The counsel for the appellants further contended that since their possession has been recorded since Samvat 2012, they should have been granted tenancy rights. The settlement authorities do not have the right to change the type of land ownership or tenancy. Therefore, mere 20 bigha 12 biswa land in the middle of the khatedari lands cannot be declared as 'gair mumkin oran' as per law. The counsel of the appellants requested that the judgment & decree of learned Assistant Collector, Nagaur dated 09.10.2003 and that of learned Revenue Appellate Authority, Nagaur dated 14.3.2005 be dismissed and the appeal be accepted.

2. In support of his arguments, advocate of the appellants submitted several judicial pronouncements viz. :-

- a. RBJ (15) 2008 page 41
LRs of Netram & anr. Vs. Board of Revenue & ors.
- b. RRT 2001 (1) page 244
Idan Vs. State of Rajasthan & anr.
- c. RRD 2001 page 184
Ghasi Ram & ors. Vs. Board of Revenue & ors.

3. The learned Addl. Government Advocate argued that this land is "Oran" and is for public use. The allotment of such land is prohibited under Section 16 of the Rajasthan Tenancy Act as well as by several judicial pronouncements of Hon'ble High Court as well as of the Supreme Court. The courts below have passed the correct judgments, therefore, the appeal should be dismissed.

(IV) DISCUSSION OF THE COURT :-

1. In the light of the arguments advanced by both the counsels, record of the case was perused along with the relevant legal provisions and judicial pronouncements. Granting of khatedari rights under section 13 & 15 of the Rajasthan Tenancy Act read with Section 10 Rajasthan Land Reforms and Resumption of Jagirs Act, 1952, qua capping/ qualifying operation of Section 16 Rajasthan Tenancy Act, are the bone of contention in this matter. For the purpose of elucidation, these provisions are mentioned hereunder :-

Section 10 Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 reads as under :-

"10. Khatedari rights in khudkasht land - As from the date of resumption of any jagir land, any khudkasht land of a jagirdar shall be deemed to be held by the jagirdar as a khatedar tenant and shall be assessed at the village rate."

Section 13, 15 and 16 of the Rajasthan Tenancy Act, 1955 respectively read as under :-

"13. Khatedari rights upon resumption or abolition — On the resumption or abolition of an estate under any law in force in the whole or any part of the State, the estate-holder holding Khudkasht shall become a Khatedar tenant thereof and shall be entitled to all the rights conferred, and be subject to all the liabilities imposed, on a khatedar tenant by or under this Act; Provided that the Zamindar or Biswedari holding Khudkasht land on the abolition of this estate under the Raj. Zamindari and Biswedari Abolition Act, 1959, shall become the Malik of such Khudkasht land and shall be entitled to all the rights conferred

and be subject to all the liabilities imposed on a Khatedar tenant by or under this Act."

"15. Khatedar tenants — (1) Subject to the provisions of section 16 and clause (d) of Sub-section (1) of section 180 every person who, at the commencement of this Act, is a tenant of land otherwise than as a subtenant or a tenant of Khudkasht or who is, after the commencement of this Act, admitted as a tenant otherwise than a sub-tenant or tenant of Khudkasht or an allottee of land under, and in accordance with, rules made under section 101 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) or who acquires Khatedari rights in accordance with provisions of this Act or of the Rajasthan Land Reforms and Resumption of Jagir Act, 1952 (Rajasthan Act VI of 1952) or of any other law for the time 9 Substituted and inserted by part A of the First Schedule in Raj Act No. 2 of 1958. being in force shall be a Khatedar tenant and shall, subject to the provision of this Act be entitled to all the rights conferred; and be subject to all the liabilities imposed on Khatedar tenants by this Act:

Provided that no Khatedari rights shall accrue under this section to any tenant, to whom land is or has been let out temporarily in Gang Canal, Bhakra, Chambal or Jawai project area or any other area notified in this behalf by the State Government."

"16. Land in which Khatedari rights shall not accrue — Notwithstanding anything in this Act or in any other law or enactment for the time being in force in any part of the State Khatedari rights shall not accrue in

- (i) pasture land;
- (ii) land used for casual or occasional cultivation in the bed of river or tank;
- (iii) land covered by water and used for the purpose of growing Singhara or other like produce;
- (iv) land under shifting or unstable cultivation;
- (v) land comprised in gardens owned and maintained by the State Governments;
- (vi) land acquired or held for a public purpose or a work of public utility;
- (vii) land which, at the commencement of this Act or at any time thereafter, is set apart for military encamping grounds;
- (viii) land situated within the limits of cantonment;
- (ix) land included within railway or canal boundaries;
- (x) land within the boundaries of any Government forest;
- (xi) municipal trenching grounds;

- (xii) land held or acquired by educational institutions for purposes of instruction in agriculture or for play- ground; and
- (xiii) land within the boundaries of a Government agricultural or grass farm;
- (xiv) land which has been set apart or is, in the opinion of the Collector, necessary for flow of water thereon in to any reservoir or tanka for drinking water for a village or for surrounding villages:

Provided that the State Government may, by notification in the Official Gazette declare that any land which is under shifting or unstable cultivation, shall cease to be a land for such cultivation and thereupon such land shall be available for the grant of Khatedari rights and the State Government may by a like notification, declare that any land which was not at the commencement of this Act under shifting or unstable cultivation shall at any time after such commencement be under such cultivation from such date as may be specified in the notification and thereupon such land shall be available for such cultivation."

2. Section 10 Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 and Section 13 deals Rajasthan Tenancy Act, 1955 with conferment of khatedari rights upon resumption or abolition of estate. Section 15 Rajasthan Tenancy Act, 1955 deals with conferment of status of the khatedari tenants on various de-facto possession holders of the land at the time of commencement of Rajasthan Tenancy Act. Both these conferment of rights are cautioned with the provision of Section 16 of the Act. Section 16 Rajasthan Tenancy Act, 1955 specifically laid downs that certain categories of land of khatedari rights shall not accrue for certain categories of land mentioned therein (supra). Gair Mumkin Oran or Oran land has been defined under Section 2 subclause (15) of Rajasthan Tenancy Act, as a land or specific piece of land having trees planted thereon which are precluded from being used for any agricultural purposes. With regard to oran lands, no doubt it is a matter of fact to be ascertained but before the ascertainment of this fact from the record, it is worthwhile to refer a celebrated judgment of Hon'ble Supreme Court in In Re : T.N. Godavarman Thirumulpad Vs. UOI [2024 INSC 997]. In this judgment, Hon'ble Supreme Court categorically dealt with the 'sacred groves' referred to as 'oran land' in local dialect. While identifying about 100 sacred groves in the State of Rajasthan, the Hon'ble Supreme Court has directed that these lands which are in the nature of Orans, Rundhs, and Dev-vans or by any

name which they may have been called in the respective area, are to be classified as forests because of their cultural and ecological significance to the local community and gave exclusive directions for their protection.

3. In the light of above legal principles enunciated in the provisions as well as the law declared by the Hon'ble Supreme Court, a factual assessment of the nature of the land in question khasra No. 218 area 20 bigha 12 biswa is very important. Jamabandi Khatauni of Village Bhundel Tehsil Nagaur for Samvat 2053-56 clearly mentions the above land as Jharidar Van 'Oran' and the category as gair mumkin oran. Even the quadrant Jamabandi (Chausala) of Samvat 2015 mentions that land as Gair Mumkin Oran Barani Avval. Similar entries were made in Khevat Khatauni of Samvat 2018-21 specifying 'Jharidar Jangal Oran' as 'gair mumkin oran'. It is not disputed that this land was a part of original khasra No. 163, but the entire parcel of land was not under agricultural or cultivational occupation as revealed from the khasra girdawari and other revenue record; therefore, settlement officers while performing the settlement operations are well within their powers to conduct the survey as to every piece of land, assessing its actual nature and classification for the purpose of identification. Any person aggrieved by such exercise of settlement officer, may always approach the appropriate forum.

4. Admittedly, soon after the implementation of this Act (Rajasthan Tenancy Act, 1955), the revenue record mentioned hereinabove shows that this land was Jharidar Van specified as gair mumkin oran. The judgment of Hon'ble Rajasthan High Court 2001 RRT (1) 244 Idan Vs. State of Rajasthan & anr. relied upon by the appellant shows that Settlement Department is not competent to change the nature of land, classification of land and related rights accrued thereto. This court agrees with the proposition of law laid down in the judgment. However, on factual matrix of this case, it is clarified that this judgment was not with regard to 'oran land'. Therefore, this judgment offers no assistance to the appellant. Similar is the fate of the other judgment relied upon by the appellant 2001 RRD 184 Ghasi Ram & ors. Vs. Board of Revenue & ors. which deals with the long standing possession over the land, which is not the case in the

present matter; as in Samvat 2015 itself land has been entered as Jharidar Van Oran land, in revenue records.

5. Therefore, in the light of above discussion and specifically in the light of authoritative judicial pronouncement of Hon'ble Supreme Court and enacted provisions of Section 16 Rajasthan Tenancy Act, the second appeal being devoid of merit, deserves to be disallowed. Consequently, no interference is warranted in the assailed judgment & decree of the learned Revenue Appellate Authority, Nagaur dated 14.3.2005 and that of the Assistant Collector, Nagaur dated 09.10.2003. Be it ordered accordingly.

ORDER

Consequent upon the discussion hereinabove, this court, after considering the factual matrix of this case and upon careful analysis of relevant law and authoritative judicial pronouncements, proceeds to declare that instant second appeal, being devoid of merits, is dismissed as disallowed. This second appeal, is accordingly disposed off; with no order as to cost. Decree be drawn as per rule.

Pronounced in open court.

(MADAN LAL NEHRA)
Member

(SANUJ KULSHRESTHA)
Member