



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

**1. Appeal Decree No. 984/2009/Alwar.**

Jagdish Prasad S/o Kanhaiya, by caste Jat,  
resident of village Pholadpur, Teh. Behror,  
District Alwar.

...Appellant

Versus

1. Sadhu Singh S/o Khemuram, by caste Yadav, resident of village Pholadpur, Teh. Behror, District Alwar.
2. State of Rajasthan through Tehsildar, Behror, Distt. Alwar.
3. State of Rajasthan through Collector, Alwar.

...Respondents

**2. Appeal Decree No. 2201/2012/Alwar.**

1. State of Rajasthan through Tehsildar, Behror Distt. Alwar.
2. State of Rajasthan through Collector, Alwar.

...Appellants

Versus

Sadhu Singh S/o Khemuram, by caste Yadad, resident of  
village Pholadpur, Teh. Behror, Distt. Alwar.

...Respondent

**3. Appeal Decree No. 5274/2006/Alwar.**

Sadhu Singh S/o Khemuram, by caste Yadav, resident of  
village Pholadpur, Tehsil Behror, District Alwar.

...Appellant

Versus

1. Jagdish S/o Kanhaiyaram, by caste Jat, resident of village Pholadpur, Teh. Behror, Distt. Alwar.
2. Nandram S/o Sultan, by caste Jogi, resident of village Dudhera, Tehsil Behror, District Alwar.
3. Mohan Singh S/o Ramswaroop(deceased) represented through his legal heirs:-
  - 3/1. Mst. Saroj Devi widow of Mohan Singh,
  - 3/2. Navneet, )
  - 3/3. Chandrashekhar, ) all sons of Mohan Singh,
  - 3/4. Naveen Kumar, )
  - 3/5. Rajesh Kumar )
  - 3/6. Suneeta D/o Mohan Singh,  
all by caste Dhanak, residents of Pholadpur,  
Tehsil Behror, District Alwar.
4. State of Rajasthan through Tehsildar, Behror,  
District Alwar.

...Respondents

**D.B.**  
**Shri V.Srinivas, Chairman**  
**Shri Manoj Kumar Nag, Member**

**Present:**

Shri S.P.Singh, counsel for appellant. )  
Shri Ashok Agarwal, counsel for respondents. ) Appeal No. 984/2009  
Smt. Poonam Mathur, counsel for respondents. )

Shri V.P.Singh, Government Advocate. )  
Shri Ashok Agarwal, counsel for respondents. ) Appeal No. 2201/2012  
Smt. Poonam Mathur, counsel for respondents. )

Smt. Poonam Mathur, counsel for appellant. )  
Shri Mukesh Jain, counsel for respondents. ) Appeal No. 5274/2006  
Shri S.P.Singh, counsel for respondents )

**JUDGMENT**

Dated 16.2.2018

The appellant Jagdish Prasad S/o Kanhaiya has approached the Board of Revenue under Section 225 of the Rajasthan Tenancy Act, 1955 in Appeal No. 2009/984 aggrieved by the judgment and decree of Settlement Officer cum Revenue Appellate Authority dated 20.12.2008 in Appeal No. 21/2007. The State of Rajasthan represented by Tehsildar, Behrod, District Alwar has filed a second appeal No. 2012/2201 under Section 224 of the Rajasthan Tenancy Act against the same judgment and decree of Settlement Officer cum Revenue Appellate Authority dated 30.12.2008 in Appeal No. 21/2007 regarding the same suit land. The respondent in the 2 above mentioned cases Sadhu Singh S/o Khemuram had filed a second appeal No. 2006/5274 against the judgment and decree of Settlement Officer cum Revenue Appellate Authority dated 8.8.2006 in Appeal No. 127/2005. All the above appeals are being heard and decided together as they pertain to the same suit land and between same parties.

2. The plaintiff/respondent Sadhu Singh S/o Khemuram had filed a suit in the court of Assistant Collector, Behror under Section 88, 89 and 188 Rajasthan Tenancy Act, 1955 regarding khasra number 359 area 10 bighas of village Pholadpur, Tehsil Behror allotted to him on 5.9.1975 and was subsequently allotted khasra number 1/1582 area 10 bighas with current khasra number 26 area 2 Air and khasra number 27 area 2.6 Hectares, which was recorded as 'Siwai Chak' lands. Hence the respondent/plaintiff Sadhu

Singh S/o Khemuram pleaded that he may be declared khatedar tenant and the respondents should be bound down by a permanent injunction. In their reply, the appellant/defendants pleaded that the land was recorded as 'Siwai Chak' and never allotted to respondent/plaintiff, hence suit should be dismissed.

3. The learned Assistant Collector, Behror dismissed the suit on 19.3.2005. The first appeal before the learned Revenue Appellate Authority was dismissed on 20.5.2005. The respondent/plaintiff filed a revision in the Court of Settlement Officer cum Revenue Appellate Authority which was dismissed on 8.8.2006. The respondent/plaintiff Sadhu Singh S/o Khemuram filed a revision in the Board of Revenue and the case was remanded to the Settlement Officer cum Revenue Appellate Authority for a fresh review on 9.3.2007. The learned S.O. cum RAA following a review on 30.12.2008 accepted the review and quashed judgment and decrees dated 20.5.2005 and 19.3.2005 while conferring khatedari rights on the respondent/plaintiff Sadhu Singh S/o Khemuram. Aggrieved by the orders of the SO cum RAA, the appellants/respondents have approached the Board of Revenue.

4. The appellants/respondents pleaded that the judgment and decree of the SO cum RAA dated 30.12.2008 is against the law and facts and deserves to be quashed. The learned Assistant Collector, Behror in his judgment and decree dated 19.01.2005 had passed an issue based order deciding 5 issues and reached the finding that no khatedari rights accrue to respondent/plaintiff in the case, hence dismissed the suit. The learned S.O.Cum-R.A.A. had dismissed the first appeal on 20.5.2005 and also the review application on 8.8.2006. Judgment dated 30.12.2008 is bad in eyes of law as the learned R.A.A. Court should have taken up the appeal in the original suit no:39/2005 and given an issue based order, instead of deciding khatedari rights in the review application. The suit land was allotted in 1986 to appellant/defendant Jagdish Prasad S/o Kanhaiya 4 bighas, Mohan 4 bighas and Nandram 2 bighas in khasra number 1/1582 and possession was handed over on 6.6.1986. The respondent/plaintiff Sadhu Singh had challenged the allotment order in the Court of SO cum Revenue Appellate Authority but the appeal was dismissed and allotment order of Appellant/defendant Jagdish Prasad was upheld.

5. Appearing for the appellant/defendant, Advocate Shri S.P.Singh pleaded that the Hon'ble High Court in a Double Bench decision dated 12.7.2017 said the following:

"In this view of the matter, the respondent no. 4 Sadhu Singh cannot be, by any stretch of interpretation, said to be a landless person and therefore he was not eligible for allotment of land under the Rules of 1970. Besides the land in dispute being a pasture land could not have been allotted to respondent no. 4 Sadhu Singh as such the land was not available for allotment even as per Rule 4 of the Rules of 1970 read with Section 16 of the Rajasthan Tenancy Act. Conduct of the respondent no. 4 hardly justifies allotment of the land of khasra no. 359, although he has been allotted the land measuring ten bighas of land. This is because the respondent no. 4 is a trespasser in several other government land. Besides, he was already allotted another ten bighas of land in khasra no. 1. He was not able to prove that he sustained disability during war. The impugned order dated 20.5.1998 passed by the Revenue Minister thus cannot be sustained in law and the same is set aside. The District Collector, Alwar is directed to ensure eviction of respondent no. 4 Sadhu Singh from the pasture land within a period of one month from the date a copy of this order is produced before him."

The Double Bench of the Hon'ble High Court held that We are in complete agreement with the view taken by the learned Single Judge and there is no reason to interfere in the well reasoned order. Though the order is passed on 1.11.2012, it is really shameful that the Collector, Alwar has not taken any proceedings against the respondent no. 4. In that view of the matter, we hope that the Collector, Alwar will act upon immediately and take action. The counsel appearing for the Gram Panchayat is directed to inform the Collector about this order and will see that the order is implemented as directed by the learned Single Judge within one month from today. The order of the learned Single Judge is confirmed to the extent of 10 bighas of land which is pasture land.

The appeal stands dismissed."

6. In pursuance of the decision of the Hon'ble High Court, the learned counsel for appellant/defendant pleads that the orders of learned SO cum RAA dated 30.12.2008 be quashed.

7. Appearing for the Government the learned Government Advocate Shri V.P.Singh Rajawat pleaded that the judgment and decree of SO cum RAA dated 30.12.2008 be quashed and judgment and decrees dated 20.5.2005 and 19.3.2005 be upheld.

8. Appearing for the respondent/plaintiff, Advocate Shri Ashok Agarwal and Smt. Poonam Mathur pleaded that the orders of the Hon'ble High Court be implemented with regard to khasra number 359. There is no order canceling the allotment of respondent/plaintiff on khasra number 1/1582. The subsequent allotments made to other persons in same khasra number as land is available. In their rebuttal, the learned Govt. Advocate and learned counsel

for appellant/defendant pleaded that the respondent/plaintiff was not a landless person in 1975 and hence not eligible for allotment.

9. We have heard the arguments and carefully examined the case records. The judgment and decree of SO cum RAA, Alwar dated 30.12.2008 is bad in the eyes of law and quashed. The judgment and decrees of SO cum RAA and Assistant Collector, Behror dated 20.5.2005 and 19.3.2005 are upheld. The Trial Court and SO cum RAA have reached the findings in their judgments dated 19.3.2005 and 20.5.2005 held that no khatedari rights accrue to respondent/plaintiff in khasra no. 359 nor khasra no. 1/1582. The Hon'ble High Court has directed that respondent/plaintiff be ejected from khasra no. 359. This Double Bench directs that the respondent/plaintiff be ejected from khasra no. 1/1582. The District Collector, Alwar shall act upon immediately on both orders, take action and report compliance. Registrar, Board of Revenue shall serve a copy of this order on the District Collector, Alwar for compliance.

10. Appeal Nos. 2009/984, 2012/2201 are allowed and Appeal No. 2006/5274 is dismissed.

Pronounced in open court.

(Manoj Kumar Nag)  
Member

(V.Srinivas)  
Chairman