

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

Revision/COLO/6456/2006/Jaisalmer.

Baloch Khan s/o Balane Khan by caste Musalman r/o Village Mandau, Tehsil and Distt. Jaisalmer.

-----Petitioner.

VERSUS

1. State of Rajasthan.
2. Anopa Ram s/o Harlal Ram by caste Rajput r/o Village Pithala, Tehsil and Distt. Jaisalmer.

-----Respondents.

S.B.

Shri Rajinder Kumar, Member

Argued by:-

Shri N.K. Goyal, counsel for the Petitioners.

Shri Virendra Singh Rathore, counsel for the Respondent no. 2.

JUDGMENT

Date: 20-07-2018

1. This revision petition has been preferred under section 23 (2) of the Rajasthan Colonisation (Allotment and Sale of Government Land in Indira Gandhi Canal Colony Area) Rules, 1975 [hereinafter referred as 'the Rules of 1975'] against the order dated 16-09-2006 of the Additional Colonization Commissioner-cum-Revenue Appellate Authority, Jaisalmer, by which appeal filed by the revisionist was dismissed.
2. Facts narrated in the revision petition are that on 21-03-2006, the petitioner filed an application for allotment of land situated in chak no. 1 DMO comprised in Murabba No. 78/09 (measuring 25 bigha)

Revision/COLO/6456/2006/Jaisalmer.

before the Deputy Colonisation Commissioner-cum-Allotting Authority, Jaisalmer under Rule 3A of 'the Rules of 1975'. Few other persons, including the respondent no. 2 Anoop Ram, also filed applications for allotment of the same land. On 13-04-2006, the above land was allotted to respondent no. 2 without issuing any notice to the petitioner and the other applicants. Feeling aggrieved the revisionist filed an appeal before the first appellate authority, which was also dismissed on 16-09-2006. Hence, this revision petition.

3. I have heard the learned counsels for the parties.
4. Shri N.K. Goyal, learned counsel for the petitioner submitted that the impugned orders are contrary to the facts and law. The learned first appellate court committed error in giving a finding that the application for allotment was dismissed by the allotment authority on 13-04-2006 in default of appearance of the revisionist. In fact the allotment authority issued notice to the petitioner in respect of different land comprised in Murabba no. 98/09 (measuring 24 bighas). The petitioner never applied for allotment of this land. That's why he did not appear before the concerned authority on 12-04-2006. The revisionist is in possession of the land in question since the formation of the present State of Rajasthan. Therefore, as per the provisions contained in Rule 21 A of 'the Rules of 1975', the revisionist had prior right for allotment of the disputed land whereas the same was allotted to respondent no. 2 without following due process and without making compliance with the relevant Rules. Therefore, a request has been made to accept the appeal and quash the impugned orders.
5. Shri Virendra Singh Rathore, learned counsel for the respondent no. 2 has vehemently opposed the above submissions. He argued that the petitioner submitted application for allotment of land of Murabba No. 98/09 and not the land of Murabba No. 78/09. The

Revision/COLO/6456/2006/Jaisalmer.

respondent no. 2 also applied for allotment of same land of Murabba No. 98/09. As the revisionist did not appear in response to notice dated 1-04-2016 before the competent authority, his application was dismissed and the land was allotted to the respondent no. 2 as per Rules.

6. I have given my thoughtful consideration to the above submissions and perused the record carefully.
7. It is revealed from the record that on 21-03-2006, an application was submitted by the revisionist for allotment of land situated in chak 1 DMO of Tehsil Jaisalmer. The dispute here pertains to the Murabba Number of the land for which the revisionist had applied. It was canvassed on behalf of the revisionist that he applied for the allotment of land of Murabba no. 78/09 whereas on behalf of the respondent no. 2 it has been canvassed that the revisionist applied for allotment of the land of Murabba No. 98/09. It is an admitted fact that on 1-04-2016, a notice was issued by the competent authority that several persons have applied for the allotment of land of Murabba no. 98/09 and thus, the same will be allotted by way of auction. Therefore, all the applicants were called upon to appear on 12/04/2006 at 10.00 AM in Camp Jaisalmer alongwith the stipulated amount and the requisite documents so that the auction proceedings may be concluded and the allotment letter may be issued. It was also mentioned in the notice that in default thereof, the application will be dismissed and no objection will be heard thereafter. A copy of the notice issued to the revisionist in this regard is available on record. Admittedly, the revisionist did not appear before the concerned authority on the stipulated date and time. Thus, his application was dismissed-in-default. The reasoning given by the revisionist for his non-appearance is that he never applied for allotment of land of khasra no. 98/09, therefore, he was least concerned with the auction proceedings of that land. It is

Revision/COLO/6456/2006/Jaisalmer.

pertinent that the allotment authority, on the due consideration of all the facts, particularly the absence of the revisionist, allotted the land of Murabba no. 98/09 to the respondent no. 2 upon deposition of 20% amount as per Rules. The first appellate court also, after a detailed consideration of the matter, found no illegality in the order of allotment of above land in favor of the respondent no. 2. Therefore, there are concurrent findings of facts that the revisionist also applied for land of Murabba No. 98/09 and his application was dismissed-in-default of his appearance. In this way, the order of allotment of above land in favor of the respondent no. 2 was confirmed by the first Appellate Authority.

8. A perusal of the copy of application submitted by the revisionist would show that there is an overwriting in the Murabba Number mentioned in it and the figure '9' has been inter-polated to make it '7'. In this way, it is revealed that the revisionist did apply for allotment of land of Murabba no. 98/09. This fact is proved by the copy of the receipt no. 41081 dated 21-03-2006, whereby security amount of Rs. 500/- was deposited by the revisionist in respect of allotment of land of Murabba No. 98/09 itself. Therefore, no legal infirmity or factual perversity has been committed by the authorities below. As such no interference is required by this Board in this Revision Petition.
9. Resultantly, the revision petition stands dismissed.

Pronounced.

(Rajinder Kumar)
Member