

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Civil Writ Petition No. 3367 / 1999

Kartar Chand, Alias Kartar Singh, son of Ranjhu Chowdhary,  
Original resident of village Rampur, Tehsil Dehra, District Kangra  
(Himachal Pradesh), At present Chak 5 SKM, Tehsil Anoopgarh,  
District – Sriganganagar.

----Petitioner

Versus



1. State of Rajasthan, to be served through the Tehsildar,  
Anoopgarh.  
2. Special Judge (III), Pong Dam Oustees, Sriganganagar.  
3. Sub-Divisional Officer, Raisinghnagar.  
4. Sukhvir Singh, son of Kalwant Singh, resident of Chak 5 LNP,  
Tehsil & District – Sriganganagar.

----Respondents

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For Petitioner(s) : Mr. J.L. Purohit, Sr. Advocate assisted by  
Mr. Ajay Purohit.

For Respondent(s) : Mr. A.R. Godara, Dy. G.C.

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**HON'BLE MR. JUSTICE ARUN BHANSALI**

**Order**

**23/05/2017**

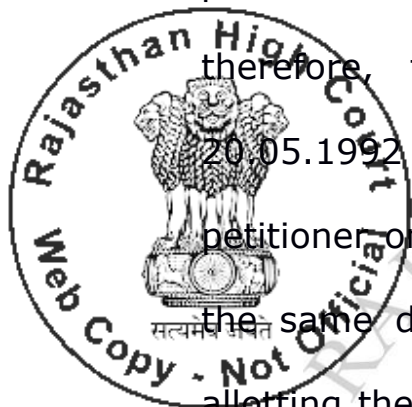
This writ petition has been filed by the petitioner aggrieved against the order dated 26.02.1998 passed by the Special Judge (III), Pong Dam Oustees Cases, Sriganganagar, whereby the review petition filed by the petitioner has been rejected.

The petitioner was allotted 24 Bigha 10 Biswa land in Square No.147/30, Chak 5 SKM under the provisions of Rajasthan Colonization (Allotment & Sale of Government Land to Pong Dam Oustees and their Transferees in Indira Gandhi Canal Colony) Rules, 1972 ('the Rules'). It is claimed that after allotment of land,

the petitioner was cultivating the land personally and had paid all the installments payable for the land and was granted khatedari rights by Allotting Authority vide Sanad dated 30.08.1989 (Annex.-1). On a survey made by the Revenue Department in the year 1991, it was reported that the petitioner had handed over the possession of the land in question to one Jagraj Singh and, therefore, the SDO, Raisinghnagar passed an order dated 20.05.1992 cancelling the allotment made in favour of the petitioner on account of breach of Rule 6(3) of the Rules and on the same day, an order was passed by the Allotting Authority allotting the land in favour of the respondent No.4 under Rule 6A of the Rules.

It is submitted that after the judgment of Hon'ble Supreme Court in *Pradesh Pong Bandh Visthapit Samiti, Rajasthan & Anr. v. Union of India & Ors.:* (1996) 9 SCC 749, the petitioner submitted a review petition before the Special Judge seeking review of the order dated 20.05.1992. The Special Judge by his order dated 26.02.1998 rejected the review petition and upheld the cancellation.

It is submitted by learned counsel for the petitioner that the order dated 26.02.1998 passed by the Special Judge is contrary to law and, therefore, the same deserves to be quashed and set aside. It was submitted that the judgment only proceeds on the basis of statement of the petitioner recorded at the time of inquiry, wherein the petitioner had appeared before the SDO (Revenue), Raisinghnagar and beyond the said statement, no material was available on record to come to a conclusion that the



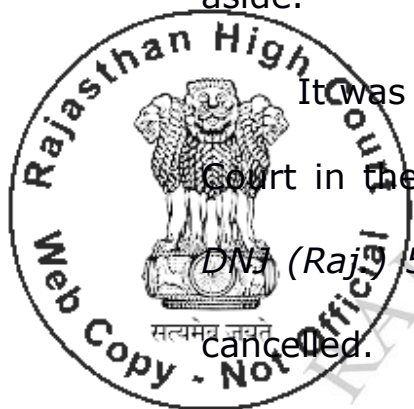
petitioner had violated the provisions of the Rules and, therefore, the order impugned deserves to be quashed and set aside.

It was submitted that there is no material available on record indicating the alleged transfer made by the petitioner and, therefore, the order impugned deserves to be quashed and set aside.

It was further submitted that in view of the judgment of this Court in the case *Pat Ram & Ors. v. State of Raj. & Ors.: 1995 DNJ (Raj) 592*, the Sanad once issued, the allotment cannot be cancelled.

Learned counsel appearing for the respondents supported the judgment passed by the Special Judge. It was submitted that from the material available on record, it was ex-facie clear that except for a bald denial of transfer the land, the petitioner had not produced any material before the Special Judge so as to prove his possession of the land in question and, therefore, the Special Judge was justified in rejecting the review petition. It was submitted that the present case would be covered by the judgment in the case of *Pradesh Pong Bandh Visthapit Samiti (supra)* and the principles laid down in other judgments would have no application as the Special Court was established under the directions of Hon'ble Supreme Court and the review petition has been decided as per the parameters laid down by Hon'ble Supreme Court.

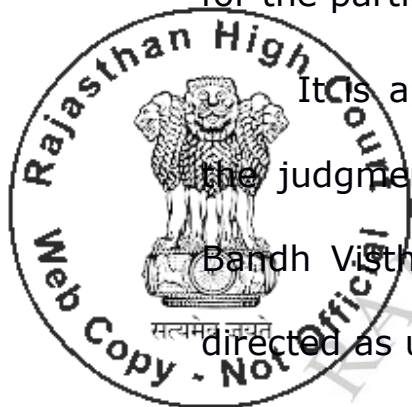
On the other aspects sought to be raised by the petitioner, reliance was placed on Division Bench judgment of this Court in



*Kali Das v. State of Raj. & Ors.: 2003 WLC (Raj.) UC 162; Kashi Ram v. UOI & Ors.: 2005 WLC (Raj.) UC 503* and the judgment in *Gurdev Singh v. State of Raj. & Ors.: S.B. Civil Writ Petition No.06/1998*, decided on 19.01.2016.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

It is apparent that the present case would be governed by the judgment of Hon'ble Supreme in the case of Pradesh Pong Bandh Visthapit Samiti (supra), wherein Hon'ble Supreme Court directed as under:-



"27. The Chief Justice of the Rajasthan High Court shall nominate, within 6 weeks of receipt of a copy of this Order, one or more District Judges for the purpose now set out. The notion of regularising the Rajasthanis in occupation of lands allotted to oustees saw the light of the day in 1972. Therefore, the cases of all cancellations of allotments to oustees subsequently to 1<sup>st</sup> January, 1992, shall be reviewed by the District Judge. Notice that he shall be so doing shall be given to the oustees allottees concerned personally, by registered post at the last known address and through the agency of the Himachal Pradesh Government. Public notice that all such cases are to be reviewed by the District Judge shall be published in two news papers printed in the vernacular and having circulation in Himachal Pradesh, particularly in Kangra region: also in two newspapers printed in Hindi and having circulation in Rajasthan, particularly in the Indira Gandhi Canal Colony area. Costs in regard to the individual and public notices shall be borne by the State of Rajasthan. For the purpose of such view the State of Rajasthan shall produce before the District Judge the entire record pertaining to each such allotment and cancellation. Even though the outstee allottee concerned may not appear, the District Judge shall review his case. Where the District Judge finds that an oustee allottee has committed a breach that invites the forfeiture of his land, he shall so record. Where the District Judge finds to the contrary, whether or not the oustee allottee appears, he shall so record. The District Judge shall also record, should he so find, that the oustee allottee was forced to leave the land because of lack of irrigation or other essential facilities such as water, roads, schools and medical assistance and/or because of coercion, intimidation or trespass. The District Judge shall be binding upon the oustee allottees and the State of Rajasthan. The District Judge shall complete the task

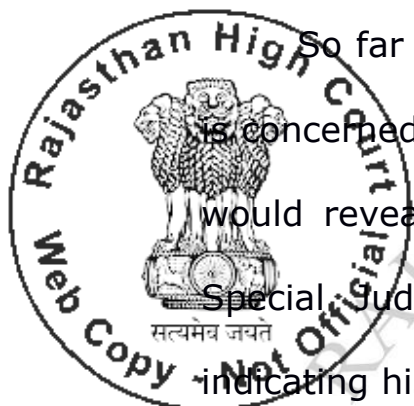
allotted to him as soon as is reasonably possible and, in any event, within 18 months from beginning it."

In view of the fact that the present order passed by the Special Judge arise only on account of review filed by the petitioner under the directions issued by Hon'ble Supreme Court, the petitioner cannot be permitted to contend otherwise.

So far as the merit of the order passed by the Special Judge is concerned, a bare look at the order passed by the Special Judge would reveal that except for his own oral statement before the Special Judge, the petitioner did not produce any evidence indicating his possession of the land in question.

When the statement of the petitioner was contradicted with the statement recorded by him before the SDO (Revenue), in presence of standing counsel for State of Himachal Pradesh, wherein the petitioner had specifically admitted having transferred the land in question, it was contended that the petitioner did not read the said statement nor the same was read over to him. The said submission of the petitioner was not accepted by the Special Judge on account of the fact that the petitioner was a literate person and was signing in English.

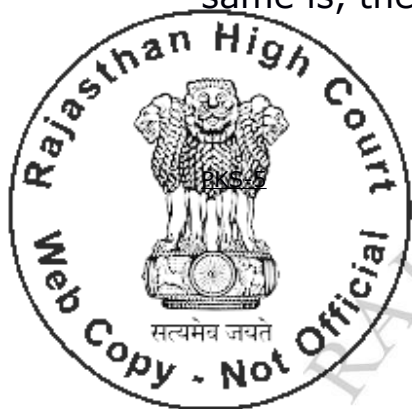
So far as the non-production of the document pertaining to the transfer of the land in question is concerned, though the same was not produced, however, in the record pertaining to the proceedings under Rule 6A of the Rules, a copy of the said document was available on record and on that count also the submission made about lack of material indicating transfer by the petitioner also has no substance.



The determination made by the Special Judge based on the material available on record cannot be said to be perverse so as to require interference by this Court under Article 227 of the Constitution of India.

Consequently, there is no substance in the writ petition, the same is, therefore, dismissed.

(ARUN BHANSALI)J.



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