

Court Of Additional District Magistrate, Chittorgarh District Chittorgarh (Raj.)

Presiding Officer- Ratan Kumar (RAS)

Case Number 034/2020 (GCMS 2020/00085)	Date of institution 23-10-2020	Date of decision 13-08-2021
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Title

Government of Rajasthan through Block Development Officer Badisadri Panchayat Samiti Badisadri District Chittorgarh (Raj.)

Revisioner

Versus

- 1- Rooplal son of Ghehri lal Jain resident of Bansi Tehsil Badisadri District Chittorgarh (Raj.)
- 2- Gram Panchayat Bansi through Sarpanch Gram Panchayat Bansi, Panchayat Samiti Badisadri, Tehsil Badisadri District Chittorgarh (Raj.)

Non- Revisioners

--:: The revision under Section 97 of Panchayati Raj Act 1994, Residential Patta issued by Gram Panchayat Bansi, in book number 53, Patta number 38 Dated 19.08.2019 ::--

Presence:- **Govardhanlal Kumhar,**
(Assistant Development Officer Badisadri)
Surendra Kumar Ojha
Absent

Revisioner
Non- revisioner No.1
Non- revisioner No.2

--:: Decision ::--

The brief description of the case is as follows that the Revisioner submitted a revision application under Section 97 Rajasthan Panchayati Raj Act, 1994 against non-revisioners and submitted that the order passed by the subordinate Gram Panchayat Bansi is contrary to the provisions of justice and law because the Gram Panchayat Bansi The lease issued to the non-revisioner No. 1 is not in the Abadi land but in the revenue record Araji number 303 Rasta land which is liable to be canceled. Under the Rajasthan Panchayati Raj Act, the Gram Panchayat can sell the Abadi land only, the Gram Panchayat has no right to sell the pasture and other government land. Nevertheless, the Gram Panchayat Bansi went beyond its jurisdiction

and issued an ancestral Patta to the non-revisioner number 1, which is automatically revoked. Being a resident of Badisadri tehsil and the said land being located in Bansi tehsil, Badisadri district, Chittorgarh, the hearing is in your court. The block development officer Panchayat Samiti Badisadri has no signature anywhere on the Patta issued to the opposition number 1, the Patta issued is automatically revoked. Therefore, it is prayed that the ancestral Patta issued by the Gram Panchayat Bansi to the non-revisioner number 1 on Patta Book No. 53 Patta No. 038 Dated 19.08.2019 should be canceled by accepting the revision petition.

On this, the revision was registered and the non-revisioners was summoned through notice and the original record was summoned from the subordinate Gram Panchayat Bansi. On Dated 21.01.2021, the absence of non-revisioner number 2 was recorded due to non-appearance of information despite non-revisioner number 2.

On Dated 16.07.2021, the block development officer, Badisadri submitted the application and sent the available records/files in the case, which we do on the record. On Dated 16.07.2021, Advocate SK Ojha appeared on behalf of non-revisioner number 1. Presented the authorization letter which is the included file.

On Dated 23.07.2021, the reply application was presented on behalf of the non-revisioner number 1, which is the included file. In his reply application, the non-revisioner number 1 rejected the facts mentioned in the revision memo and said that Araji number 303 is not a road land, the Gram Panchayat has issued the Patta of the same which is under its control in the Bilanam government land whose old Khasara number is 831. Gram Panchayat Bansi has sold plots of land on the land of the Abadi through the legal process, which the Panchayat has full rights, therefore, has not given the Patta beyond the jurisdiction, but has given the Patta from the jurisdiction itself, which cannot be cancelled could. The disputed plot is not part of the road, the road is after it. The Patta is signed by the Block Development Officer, without seeing the Patta, wrong revision has been presented. Therefore the Patta is not liable to be cancelled. Revision is barrd by limitation.

On Dated 13.08.2021, the both parties appeared in court. We are heard the argument whom was made by the both parties. The Assistant Development Officer Badisadri reiterated the facts mentioned in the revision memos and told that the order passed by the subordinate Gram Panchayat Bansi is contrary to the provisions of justice and law, Because the lease issued by the Gram Panchayat Bansi to the non-revisioner number 1 is not in the Abadi land but in the revenue record Araji number 303 Rasta land which is liable to be cancelled. Under the Rajasthan Panchayati Raj Act, Gram Panchayat can sell only Abadi land, Gram Panchayat has no right to sell pasture and other government land, yet Gram Panchayat Bansi has gone beyond its jurisdiction to give ancestral Patta to non-revisioner number 1 issued which is liable to be quashed. On this, learned counsel non-revisioner number 1 reiterated the facts mentioned in his argument according to reply revision application and said that the Araji number 303 is not a Rasta land; the gram panchayat has issued the Patta of the same which is under its control in the Bilanam government land. The old number is 831. Gram Panchayat Bansi has sold plots of land on the Abadi land through the legal process, which the Panchayat has full rights, therefore, has not given the Patta beyond the jurisdiction, but has given the Patta from the jurisdiction itself, which cannot be cancelled. The disputed plot is not part of the road, the road is after it. The Patta is signed by the Block Development Officer, without seeing the lease, wrong revision has been presented. Therefore the Patta is not liable to be cancelled. Revision is barrd by limitation. With the same precept, learned advocate non-revisioner No. 1 concluded his argument. In response to the argument on this, the Assistant Development Officer in support of his argument In the order of complaint sent by Sub-Divisional Officer Badisadri to District Collector Chittorgarh, got an overview of the investigation report number/vigilance/2020/62 Dated 20.03.2020. The copy of the said letter is on record as the included file. Therefore, by accepting the revision petition, the ancestral Patta issued on 19-08-2019 by the Gram Panchayat Bansi to the non-revisioner number 1, Patta book number 53, Patta number 38, should be cancelled. With this precept, Assistant Development Officer Badisadri ended his

argument. We perused the file completely. Perused the records received from the subordinate court, considered the facts. The file was reserved for decision.

The file was presented for decision. We have perused the file completely. The facts in the case were carefully examined. We have seen the law and went through section 97 of the Panchayati Raj Act, 1994 in depth.

97. Power of revision and review by Government.-

- (1) The State Government may, either of its own motion or on an application from any person interested, call for and examine the record of a Panchayati Raj Institution or of a Standing Committee or Sub-Committee thereof in respect of any proceedings to satisfy itself as to the correctness, legality or propriety of any decision or order passed therein or as to the regularity of such proceedings and, if in any case, it appears to the State Government that any such decision or order be modified, annulled, reversed or remitted for reconsideration, it may pass order accordingly:

Provided that the State Government shall not pass any order prejudicial to any party unless such party has a reasonable opportunity of being heard in the matter.

- (2) The State Government may stay the execution of any such decision or order prejudicial to any party, pending the exercise of its powers under sub-section (1) in respect thereof.
- (3) The State Government may, of its own motion or on an application received from any person interested, at any time within ninety days of the passing of an order under Subsec.

(1), review any such order if it was passed by it under any mistake, whether of fact or of law or in ignorance of any material fact. The provisions contained in the proviso to Sub-sec. (1) and in Sec. (2) shall apply to a proceeding under this sub-section.

According to section 97 of the Rajasthan Panchayati Raj Act 1994, the State Government may, on its own motion or on the application of any

person interested, confirm the correctness, legality, propriety and regularity of the decision or order in respect of any proceedings of any Panchayati Raj Institution or any committee thereof. Reserves the right to call for records, examine and modify, reverse, modify or remit such orders/decisions/proceedings for reconsideration. According to notification of State Government Notification No. F4(10)Rev/Law/Amendment/2004/3690 Dated 13.12.2004, the delegation of powers conferred under the said section 97 has been restored to the District Collector. The question has been raised regarding the legality/propriety of the disputed Patta under the supervision of the revisioner, in such a situation the matter is found maintainable in this Court. The delegation of powers conferred under the said section 97 has been restored to the District Collector. The question has been raised regarding the legality/propriety of the disputed Patta under the supervision of the Revision, in such a situation the matter is found maintainable in this Court. We have perused the file completely. Studied/perused the records received from the subordinate court. In Chapter 9 of the Panchayati Raj Rules 1996, procedural provisions have been made in respect of Abadi land. According to the above provisions, provisions have been made for regularization of old houses under Rule 157. The following provisions have been made in Rule 157 of the Panchayati Raj Rules, 1966.

157. Regularisation of old houses.-

[1][Where the persons are in possession of the old houses in Abadi land and desire to get a patta issued, patta may be issued by the Panchayat in Form XXIII-A after depositing the charges as under : -

- (a) For old houses constructed more than fifty years before the date of commencement of these rules Rs. 100 /-
- (b) For old houses constructed [during the seventy years immediately preceding to date of 31st December, 2016]. Rs. 200/-

[2][Provided that no fees shall be charged under sub-clause (a) an only 10 percent fees shall be charged under sub-clause (b) of clause (i) above from the families included in the list of below poverty line.]

We thoroughly studied/perused the records received from the subordinate Gram Panchayat Bansi. In Rule 157 of the Rajasthan Panchayati Raj Rules 1996, provisions have been made regarding the regularization of old houses. According to the provision, where there are old houses in the occupied land of the people and they want to get a Patta issued from the Panchayat, then after making the amount according to the rules, the Patta can be issued by the Panchayat. It is important to note here that in Rule 157 of the Rajasthan Panchayati Raj Rules 1996, provisions have been made for the Gram Panchayat regarding the regularization of old houses located in the Abadi land. Under the above provisions, the Gram Panchayat has the jurisdiction to regulate the houses located only on Abadi land, no rights of any kind have been conferred on the gram panchayat in respect of non-abadi land by the Rajasthan Panchayati Raj Act 1994. We perused the original record submitted by the subordinate Gram Panchayat Bansi. In the present record, in the order mentioned in the list of orders attached in the letter, in the order number 1 Dated 20.12.2018, the number of Arajji of the plot is not marked but is empty. In order no. 2 Dated 20.12.2018, the columns of the date filed and the date of issue of NOC are blank. Similarly, in respect of no objection in order number 3 Dated 21.01.2019, there is no marking of any kind but the column is blank. The column of order no. 4 Dated 05.02.2019 is also empty and empty. There is no Patwari report /Kisam land certificate in respect of the plot. Regarding the information letter issued by the Gram Panchayat Bansi, how the no-objection letter has been publicized in inviting allegations regarding the regularization of the old house located in the Abadi land, that it is not marked. Along with this, it does not have the signature of Village Development Officer Bansi. In the committee report of the ward panches, the description of the area of the plot is not mentioned in any way in relation to the plot. In such a situation, how has a total of 1400 square feet Patta been issued to the non-revisioner No. 1 in the book number 53, Patta number 38. Its marking is not mentioned in the records available on the file, in such a situation the fact appears before the court that the subordinate Gram Panchayat Bansi has completely Obviously going disregarded the provisions regarding regulation of old houses in Rule 157 of the Rajasthan Panchayati Raj Rules 1996. Along

with this, we thoroughly reviewed / perused the investigation report sent by Sub-Divisional Officer Badisadri to District Collector Chittorgarh. Sub-Divisional Officer Badisadri, from letter No. vigilance/2020/62 dated 20.03.2020 to District Collector Chittorgarh, has been informed in para no. 8 of the investigation report that Patta Book No. 53 Patta No. 38 Dated 19.08.2019 by Former Sarpanch Shankarlal Salvi and Village Development Officer Narendra Singh Dharmavat Patta Book No. 53 Patta No. 038 was issued on 19.08.2019 to Rooplal son of Gehrilal Jain resident Bansi Patta was issued in Araji No. 303 Kisam Rasta of Village Bansi, in such a situation it would have been obvious to issue the said disputed Patta by the subordinate Gram Panchayat going beyond its jurisdiction. It is evident in such a situation that under the provisions of regulation of old houses under Rule 157 of Rajasthan Panchayati Raj Rules 1996 by Subordinate Gram Panchayat Bansi Panchayat Samiti Badisadri, making a legal mistake in issuing the Patta to the applicant. The error has been committed by the subordinate Gram Panchayat Bansi. With this the revision has been introduced under the Panchayati Raj Act, 1994 which is to be considered only under the provisions of section 97 of the Act. According to the provisions mentioned in section 97 of the Act, the above disputed book number 53 Patta number 38 Dated 19.08.2019 is to be examined only, any kind of comment should be made in relation to the other facts raised by the sub-divisional officer Badisadri in the inquiry report is not appropriate. Under Section 97 of the Panchayati Raj Act, there is only a provision to examine the legality of the decision or order in relation to any proceedings of the Panchayati Raj Institution or any of its committees. In such a situation, it seems appropriate to dismiss the disputed Patta in book number 53, Patta number 38 Dated 19.08.2019.

On the basis of the above analysis, the disputed Patta in book number 53, Patta No. 38 Dated 19.08.2019 by Gram Panchayat Bansi Panchayat Samiti Badisadri, on the basis of the above analysis, after examining the records of the subordinate Gram Panchayat in relation to the disputed Patta In book number 53, Patta No. 38 Dated 19.08.2019, was raised by the Subordinate Gram Panchayat Bansi before the court. Under the provisions of regularization of old houses under Rule 157 of the Panchayati Raj Rules, 1996, it appears to have been committed by the

subordinate Gram Panchayat Bansi Panchayat samiti Badisadri in issuing the Patta by making a legal mistake in issuing the Patta to the applicant, in such a situation by the revisioner The Revision submitted is accepted, and Patta in book number 53, Patta number 38 Dated 19.08.2019 issued by the subordinate Gram Panchayat Bansi, which has been issued in favor of non- revisioner No.1 Rooplal Son of Ghehri lal Jain resident of Bansi Tehsil Badisadi is hereby quashed is done. A copy of the decision should be sent to the Development Officer, Badisadri for information and compliance. The record of the subordinate court should be sent. After the all process of the file has been done, the necessary action should be sent to the District Record room.

This decision was written and pronounced in the open court today on **13.08.2021**.

(Ratan Kumar)
Additional District Magistrate,
District Chittorgarh