

NON REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2729 OF 2023
(Arising out of SLP(C) NO.24939 OF 2019)

**LEGAL REPRESENTATIVE OF
BHAGWANI DEVI, BHARAT BHUSAN ...APPELLANT(S)**

VERSUS

**THE STATE OF RAJASTHAN
AND OTHERS**

J U D G M E N T

B.R. GAVAI, J.

1. Leave granted.
2. This appeal challenges the judgment and order passed by the Division Bench of the High Court of Judicature for Rajasthan at Jodhpur dated 06.03.2019, thereby allowing the intra court appeal filed by the respondents/State, which was in turn filed challenging the judgment and order passed by the learned Single Judge dated 08.12.2007 allowing the writ petition filed by the appellant.

3. The facts in the present case are not disputed. The land in question was allotted to Shri Lal Chand, son of Shri Ghasi Ram, and sanad was issued in his favour. The said Lal Chand proceeded to sell the land for consideration by way of agreement to sell dated 05.06.1986 in favour of Bela Ram, son of Chamba Ram. Bela Ram made an application under Section 13-A of the Rajasthan Colonization Act, 1954 (Act No.XXVII of 1954) (for short, 'the Act') for declaration of the same as valid by making payment of compounding fee to the State.

4. Subsequently, the agreement came to be cancelled by mutual consent. However, on 09.08.1990 Chandra Bhan, son of Bela Ram made an application for depositing the compounding fee, stating that in the family partition, the said land had fallen to his share. The said application was rejected by the Additional District Collector, Sriganganagar vide order dated 24.04.1995.

5. The said order came to be challenged before the Revenue Appellate Authority, which also rejected the appeal

on 14.08.1995. Being further aggrieved, a second appeal came to be filed before the Board of Revenue, which was also rejected on 13.07.1998. Being aggrieved thereby, a writ petition challenging the aforesaid orders came to be filed by the present appellant, who had purchased the property in the interregnum on 04.07.1991.

6. During the course of hearing before the learned Single Judge, learned government advocate fairly submitted that in the proceedings relating to Bela Ram under Section 13-A of the Act, the land could not have been resumed in favour of the State Government, at least without providing an opportunity of hearing to the appellant.

7. Learned counsel further stated that in view of the amendment in law i.e. Section 13 of the Act and subsequent notification dated 22.04.1991, the sale in favour of the writ petitioner was unassailable. As such, the learned Single Judge allowed the petition and set aside the orders including the order of resumption of land.

8. Being aggrieved thereby, the State preferred an appeal. In appeal, the learned Division Bench reversed the order. It held that the finding with regard to non-following of principle of natural justice was unsustainable. It further observed that in view of the notification dated 22.04.1991, the restrictions on transfers was still in operation and as such, set aside the judgment and order passed by the learned Single Judge.

9. Being aggrieved thereby, the present appeal.

10. Shri Ankur Sood, learned counsel appearing on behalf of the appellant, submitted that the restrictions on alienation in so far as the property in question is concerned was brought into effect vide notification dated 30.11.1971. He further submitted that, however, vide subsequent notification dated 03.10.1985, notification dated 30.11.1971 has been repealed, thereby removing the restrictions. He, therefore, submits that the impugned order is not sustainable in law.

11. Shri Sandeep Jha, learned counsel appearing on behalf

of the respondents, on the contrary submits that in view of the notification dated 22.04.1991, the restrictions have been reimposed and as such the finding of the Division Bench warrants no interference.

12. It is pertinent to be noted that the order passed by the learned Single Judge was basically on the concession made by the learned counsel for the State.

13. In any case, for the reasons recorded hereinbelow, we find that there was no reason for the learned Judges of the Division Bench to interfere with the order of the learned Single Judge.

14. It would be relevant to refer to notification dated 30.11.1971 which reads as under:

“Part 4(c) Rajasthan Gazette, November 30,
1971

Revenue (Colonization) Department

Notification
Jaipur, November 30, 1971

S.O. 138:- In pursuance of Rule 2(9) of the
Allotment of Government Land in Rajasthan

Canal Project Region to the Temporary Agricultural Lease Holders and Other Landless Persons Rules, 1971 after Rajasthan Colonization, 1955, State Government hereby declares the areas mentioned in Columns No.3 to 6 of Schedule as Colonization Tehsils:-

Details of boundary of Rajasthan Canal Project, various Colonization Tehsil Area

Sl. No.	Name of Colonization Tehsil	Village	Holding details	Area		Special details
				In acres	In sq. miles	
1	2	3	4	5	6	7
1	Naurangdesar	Total Colonization Tehsil Naurangdesar		101068	157.62	
2	Hanumangarh	Total Colonization Tehsil Hanumangarh		87211	136.27	
3	Rawatsar	Total Colonization Tehsil Rawatsar		122148	175.23	
4	Vijaynagar	Total Colonization Tehsil Vijaynagar		126461	197.60	

No.F.3(a)(108) Rev/Kol/71

**By the order of Governor
Munga Lal Sureka
Deputy Secretary to Government"**

15. A perusal thereof would reveal that the area of Vijaynagar was brought into the ambit of the said Act, thereby prohibiting any transfers.

16. However, it would also be relevant to refer to notification dated 3.10.1985, which reads:-

“Govt. of Rajasthan Revenue (Colonization)
Department

Serial No.P-4/21/Raj/Deputy/02 Jaipur
Dated 3rd Oct., 1985

Notification

In continuation of Rule-2 (1) (viii) of Rajasthan Colonization (allotment and sale of government land in Indira Gandhi canal area) Rules 1975, the state Govt. repeal Notification No.F-3/A/108/Rev./Col/71 dated 30th November, 1971 of this Department with immediate effect.

By the order of the Governor
Sd/- Illegible 28.09.1985
(C.L. Jain)

Deputy Secretary to the Government

17. It is thus clear that vide the 1985 notification, the 1971 notification has been repealed, thereby lifting the embargo, which was created by the 1971 notification.

18. Insofar as 1991 notification is concerned, a perusal thereof would reveal that vide the said notification the State Government excludes the operation of the said Act, in respect of areas situated inside Indira Gandhi Canal and Gangnagar

Projects, and as such the reliance placed by the learned Judges of the Division Bench on the said notification is totally without substance.

19. In the result, the appeal is allowed and the impugned judgment and order is quashed and set aside and the order of the learned Single Judge is restored.

20. Pending application(s), if any, shall stand disposed of.

.....J.
(B.R. GAVAI)

.....J.
(ARAVIND KUMAR)

**NEW DELHI;
APRIL 11, 2023.**