

Rajasthan High Court - Jodhpur

Pekaram vs State Of Rajasthan on 5 November, 2019

Bench: Dinesh Mehta

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR S.B. Civil Writ Petition No. 12764/2019 Pekaram S/o Shri Rajaji, Aged About 43 Years, By Caste Meghwal, R/o Sanfada, Tehsil And District Jalore.

----Petitioner Versus

1. State Of Rajasthan, Through District Collector, Jalore
2. Vikash Adhikari, Panchayat Samiti Sayala, District- Jalore
3. Gram Panchayat Sanfada, Through Sarpanch Sanfada, Tehsil & District Jalore.

----Respondents

For Petitioner(s) : Mr. L.K. Ramdhari

JUSTICE DINESH MEHTA

Order

05/11/2019

The present writ petition is directed against the order dated 24.06.2019, passed by the Additional District Collector, Jalore in a revision petition filed by the respondents under Section 97 of the Rajasthan Panchayati Raj Act, 1994 (hereinafter referred to as "the Act of 1994").

The facts giving rise to the present writ petition are that the respondents No.2 and 3 preferred a revision petition under Section 97 of the Act of 1994 and challenged the 'Patta' No.14/1 dated 05.12.2001, issued in favour of the present petitioner. It was inter alia asserted that the resolution and consequential 'Patta' granted to the petitioner was not in conformity with the provisions, particularly Rule 157 B of the Rajasthan Panchayati Raj Rules, 1996; that the requisite compliance of the statutory (2 of 4) [CW-12764/2019] provisions were not made by the then Gram Panchayat; and that the prescribed fee for issuance of 'Patta' was also not deposited by the respondent (petitioner herein). It was also asserted that the petitioner has not raised any construction over the land in question, in relation whereof the 'Patta' was issued and thus there was a breach of condition No.8 of the terms of the lease ('Patta'). It was also asserted by the Gram Panchayat that the land in question for which 'Patta' had been issued, was recorded as "Gair Mumkin Pahad" in the revenue record and, as such, it was not available for allotment/regularisation.

Learned Additional Collector allowed the aforesaid revision petition, filed by the respondent - Gram Panchayat and set aside the subject 'Patta' dated 05.12.2001. Learned Additional Collector recorded a categorical finding that there is no evidence of affixation of objections on the conspicuous place of Panchayat, no proof of deposit of Rs.25/- for inspection fee, Rs.60/- - the fee for approval of the map and Rs.100/- - fee for issuance of 'Patta'. The learned Additional Collector has also given a finding that the land on which the 'Patta' had been granted was recorded as "Gair Mumkin Pahad", which was not available for grant of "Patta".

Assailing the order impugned dated 24.06.2019, passed by the learned Additional Collector, Mr. Ramdhari, learned counsel for the petitioner contended that the learned Additional Collector has committed an error of law in setting aside petitioner's 'Patta' in furtherance of the revision petition, which was filed after 17 years of issuance of the 'Patta'.

According to learned counsel for the petitioner, the revision petition was not only highly belated, the same was not (3 of 4) [CW-12764/2019] maintainable because of availability of statutory remedy of appeal before the Zila Parishad under Section 97 A of the Act of 1994.

Taking the Court through various documents, learned counsel for the petitioner made an attempt to satisfy the Court that the land, for which the contentious 'Patta' has been issued, is not a land of "Gair Mumkin Pahad" and the same had been converted by the State Government to Aabadi, vide order dated 30.10.1981.

Heard learned counsel for the petitioner and perused the material available on record.

A perusal of the documents placed on record, does show that the land of Khasra No.266/1 of village Sanfada has been converted to Aabadi, but such conversion was from "Gair Mumkin Angore and Oran Land" and not from the "Gair Mumkin Pahad". As such, petitioner's contention that the disputed land of Khasra No.266/1 has been converted to Aabadi is not proved on. That apart, the petitioner has failed to show any documentary or other evidence to prove the fact that the land in question for which the contentious 'Patta' has been issued falls in which Khasra Number. There is no finding as far as Khasra No.266/1 is concerned and the proceedings of Gram Panchayat and even the 'Patta' issued to petitioner does not contain the particulars of land, on which the petitioner's ancestors were allegedly having possession.

During the course of submissions, learned counsel for the petitioner produced photographs of the construction raised by the petitioner on the site.

A perusal of the photographs placed by the petitioner clearly shows that there is a new construction, it cannot be said with (4 of 4) [CW-12764/2019] certitude that petitioner or any one else did have possession over the disputed land.

This Court does not find any error or perversity in the finding of the learned Additional Collector that the land in question was recorded as "Gair Mumkin Pahad", for which no 'Patta' could be issued by the concerned Gram Panchayat.

That apart, the District Collector has clearly recorded a finding that there is no evidence to show that the requisite fee of inspection (Rs.25/-), approval of map (Rs.60/-) and issuance of Patta (Rs.100/-) have been deposited. Even the petitioner has not produced any receipt or evidence to show that such amount was deposited by him.

In absence of proof of payment of the requisite amount/fee, this Court is of the considered opinion that the 'Patta' in question had been irregularly issued to the petitioner and the authority below has committed no error of law in setting it aside.

The writ petition is, therefore, dismissed. Stay petition also stands disposed of accordingly.

(DINESH MEHTA),J 16-Ramesh/-

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