

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Second Appeal No. 454/2008

Nanak Chand

----Appellant

Versus

State Of Raj. & Ors.

----Respondents

For Appellant(s) : Mr. K C Sharma

For Respondent(s) : None Present

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

10/11/2022

Learned counsel for appellant-plaintiff submits that the suit plot was purchased through registered sale deed dated 09.06.1978, from one Ramswaroop Meena and presently plaintiff is in possession and his *patol* is constructed thereupon and plot is being used for non-agriculture purposes. He submits that since the land whereupon the plot in question is situated was later on declared as *Sawaichak*, respondent sought to dispossess the plaintiff, therefore, he instituted the present civil suit to declare that possession is lawful and established. He pointed out that both courts below have committed illegality and jurisdictional error in dismissing the plaintiff's suit applying Section 42(b) of the Rajasthan Tenancy Act, 1955.

Heard.

Matter requires consideration on following substantial question of law:

"Whether provision of Section 42(b) of Rajasthan Tenancy Act, 1955 applies on the suit property purchased by

plaintiff for non-agriculture purposes through registered sale deed dated 09.06.1978 and possession of plaintiff over the suit plot may be treated as illegal?

Admit.

Since respondents have already appeared, hence no need to issue notice.

Record has already received.

This Court, vide order dated 13.04.2009, has already passed a stay order that "Meanwhile both the parties would maintain status-quo".

The order dated 13.04.2009 is made absolute during course of this second appeal.

Accordingly, stay application stands disposed.

(SUDESH BANSAL),J

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