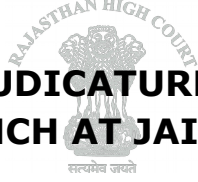


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Special Appeal Writ No. 34/2022

Mohan Lal Son Of Late Shri Ladu Ram, R/o House No. 115,
Village Badhdevri (Mansarovar), Tehsil Sanganer, District Jaipur
(Rajasthan).

----Appellant

Versus

1. Suresh Chand Jain Son Of Shri Fateh Chand Jain, Aged About 58 Years, Representative M/s Fatehchand Estate Private Limited, Registration No. 3872, Mittal Bhawan, Hari Marg, Civil Lines, Jaipur (Rajasthan).
2. Board Of Revenue For Rajasthan, Ajmer Through Its Registrar.
3. State Of Rajasthan, Through Tehsildar Sanganer, District Jaipur (Rajasthan)
4. Divisional Commissioner, Jaipur.
5. Sub-Divisional Officer, Sanganer District Jaipur.
6. Assistant Settlement Officer, Sanganer, Jaipur.
7. Anil Kumar S/o Lt. Sh. Ladu Ram, (Deleted By The Order Dated 22.9.2014 Passed In The Writ Petition)
8. Ramesh Kumar S/o Lt. Sh. Ladu Ram, (Since Deceased Through Lrs)
- 8/1. Sushila Devi, W/o Lt. Sh. Ramesh Kumar
- 8/2. Kishan Bairwa S/o Lt. Sh. Ramesh Kumar, Through Guardian Mother Shushila Devi.
- 8/3. Anshu Bairwa S/o Lt. Sh. Ramesh Kumar, Through Guardian Mother Sushila Devi.
9. Raju @ Rajulal, (Deceased) Through L.rs.
- 9/1. Smt. Gita Devi, Wife Of Late Shri Raju @ Rajulal
- 9/2. Shivani Kumari D/o Late Shri Raju @ Rajulal, Through Guardian Mother Smt. Gita Devi.
- 9/3. Mahendra S/o Late Shri Raju @ Rajulal, Through Guardian Mother Smt. Gita Devi.
- 9/4. Lucky Kumar Son Of Late Shri Raju @ Rajulal, Through Guardian Mother Smt. Gita Devi.
10. Prabhu Dayal, Son Of Late Shri Laduram

11. Rampyari Wife Of Late Shri Laduram (Deleted), Respondents No. 7 To 11, Resident Of Village Badhdevri (Mansarovar), Tehsil Sanganer, District Jaipur (Rajasthan).
12. Lalita Devi D/o Late Shri Ladu Ram, Wife Of Shri Ashok Kumar, R/o Kanota Bawri, Tehsil Bassi, District Jaipur (Rajasthan).
13. Santosh D/o Late Shri Ladu Ram W/o Shri Mohan Lal, R/o Jasla Ki Bawri, Purani Basti, Near Chandpole, Jaipur (Rajasthan).

----Respondents

Connected With

D.B. Special Appeal Writ No. 37/2022

1. Raju @ Rajulal, (Deceased) Through L.rs.
- 1/1. Smt. Gita Devi Wife Of Late Shri Raju @ Rajulal, Aged About 36 Years, R/o Village Badhdevri (Mansarovar), Tehsil Sanganer, District Jaipur
- 1/2. Shivani Kumari D/o Late Shri Raju @ Rajulal, Aged About 15 Years, Through Guardian Mother Gita Devi, R/o Village Badhdevri (Mansarovar), Tehsil Sanganer, District Jaipur
- 1/3. Mahendra Kumar S/o Late Shri Raju @ Rajulal, Aged About 14 Years, Through Guardian Mother Gita Devi, R/o Village Badhdevri (Mansarovar), Tehsil Sanganer, District Jaipur
- 1/4. Lucky Kumar Son Of Late Shri Raju @ Rajulal, Aged About 11 Years, Through Guardian Mother Gita Devi, R/o Village Badhdevri (Mansarovar), Tehsil Sanganer, District Jaipur

----Appellants

Versus

1. Suresh Chand Jain Son Of Shri Fateh Chand Jain, Aged About 63 Years, Representative M/s Fatehchand Estate Private Limited, Registration No. 3872, Mittal Bhawan, Hari Marg, Civil Lines, Jaipur (Rajasthan).
2. Board Of Revenue For Rajasthan, Ajmer Through Its Registrar.
3. State Of Rajasthan, Through Tehsildar Sanganer, District Jaipur (Rajasthan)
4. Divisional Commissioner, Jaipur.

5. Sub Divisional Officer, Sanganer District Jaipur.
6. Assistant Settlement Officer, Sanganer, Jaipur.
7. Mohan Lal, Son Of Late Shri Laduram
8. Anil Kumar Son Of Late Shri Laduram, (Deleted By The Order Dated 22.9.2014 Passed In The Writ Petition)
9. Ramesh Kumar, Son Of Late Shri Laduram, (Deceased) Through L.rs.
- 9/1. Smt. Sushila Devi, Wife Of Late Shri Ramesh Kumar
- 9/2. Kishan Bairwa, Son Of Late Shri Ramesh Kumar Through Guaridan Mother Sushila Devi
- 9/3. Anshu Bairwa Son Of Late Shri Ramesh Kumar, Through Guaridan Mother Sushila Devi
10. Prabhu Dayal, Son Of Late Shri Laduram
11. Rampyari Wife Of Late Shri Laduram (Deleted), Respondents No. 7 To 11, Resident Of Village Badhdevri (Mansarovar), Tehsil Sanganer, District Jaipur (Rajasthan).
12. Lalita Devi D/o Late Shri Ladu Ram, Wife Of Shri Ashok Kumar, R/o Kanota Bawri, Tehsil Bassi, District Jaipur (Rajasthan).
13. Santosh D/o Late Shri Ladu Ram W/o Shri Mohan Lal, R/o Jasla Ki Bawri, Purani Basti, Near Chandpole, Jaipur (Rajasthan).

-----Respondents

D.B. Special Appeal Writ No. 488/2022

Prabhu Dayal S/o Late Shri Ladu Ram, And Legal Representative Of Ladu Ram S/o Kishanaram Bairwa (Deceased), Resident Of Village Badhdevri (Mansarovar), Tehsil Sanganer, Dist. Jaipur, Rajasthan.

-----Appellant

Versus

1. Suresh Chand Jain S/o Shri Fateh Chand Jain, Representative M/s Fatehchand Estate Pvt. Ltd. Registration No. 3872, Mittal Bhawan, Hari Marg, Civil Line, Jaipur, Rajasthan.
2. Board Of Revenue For Rajasthan, Ajmer Through Its Registrar.

3. State Of Rajasthan, Through Tehsildar, Sanganer, Dist. Jaipur, Rajasthan.
4. Divisional Commissioner, Jaipur, Rajasthan.
5. Sub Divisional Officer, Sanganer, Dist. Jaipur.
6. Assistant Settlement Officer, Sanganer, Jaipur.
7. Mohan Lal, S/o Late Shri Ladu Ram
8. Anil Kumar, S/o Late Ladu Ram
9. Ramesh kumar S/o Late Shri Laduram since deceased through Lrs.
- 9/1. Sushila, W/o Ramesh Kumar
- 9/2. Kishan, S/o Ramesh Kumar
- 9/3. Hanshu, S/o Ramesh Kumar
10. Raju @ Rajulal S/o Late Shri Laduram, Since Deceased Through Lrs.
- 10/1. Geeta, W/o Rajulal
- 10/2. Mahendra Kumar, S/o Rajulal
- 10/3. Lucky, S/o Rajulal
- 10/4. Shivani, S/o Rajulal
11. Rampyari Widow Of Late Shri Ladu Ram, All Above Respondents No. 7 To 9 Are Resident Of Village Badhadevri (Mansarovar) Tehsil Sanganer, Dist. Jaipur, Rajasthan.
12. Lalita Devi D/o Late Shri Ladu Ram W/o Shri Ashok Kumar, Legal Representative Of Ladu Ram, Resident Of Kanota Bawri, Tehsil Bassi, District Jaipur, Rajasthan.
13. Santosh D/o Late Shri Ladu Ram W/o Shri Mohan Lal, Legal Representative Of Ladu Ram, Resident Of Jasla Ki Bawri, Purani Basti, Near Chandpole, Jaipur, Rajasthan.

----Respondents

For Appellant(s)	:	Mr. R.K. Mathur, Sr. Adv. assisted by Mr. Aditya Kiran Mathur in SAW No.34/2022
	:	Mr. Ved Prakash Sogarwal in SAW No.37/2022
	:	Mr. Hari Pratap Singh for Mr. Abhimanyu Singh Yaduvanshi in SAW No.488/2022

For Respondent(s) : Mr. Kamalakar Sharma, Sr. Adv.
assisted by Mr. Madhusudan
Rajpurohit in SAW Nos.34/2022 &
37/2022
: Mr. Hemant Taylor in SAW
No.34/2022
: Mr. Brijesh Methi &
Mr. Pradeep Vishnoi in SAW
No.37/2022
: Mr. Nitin Jain in SAW No.488/2022
For State : Ms Shikha Sharma for
Mr. G.S. Gill, AAG

HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MR. JUSTICE VINOD KUMAR BHARWANI

Judgment

Reserved on: **31/08/2024**

Pronounced on: **06/09/2024**

(Per Pankaj Bhandari, J)

1. Appellants have preferred these appeals aggrieved by the order dated 24.11.2021 passed by the learned Single Judge, whereby the review petitions filed by the appellants/review petitioners were dismissed.

2. It is contended by Shri R.K. Mathur, learned Senior Advocate, assisted by Mr. Aditya Kiran Mathur for the appellants that the learned Single Judge allowed S.B. Civil Writ Petition No.8209/2013, filed by Suresh Chand Jain, vide order dated 31.05.2018 without affording opportunity of hearing to the parties. Appellants challenged the order dated 31.05.2018 by filing D.B. Civil Special Appeal (Writ) No.821/2018, which was decided by the Division Bench of this Court vide order dated 20.07.2018 and the appellants were permitted to approach the learned Single Judge. It was mentioned in the order that if the

review petitions are preferred before the learned Single Judge, the learned Single Judge will consider and decide the same after hearing the parties. It is contended that thereafter, the review petitions were filed before the learned Single Judge, however, the same were dismissed without hearing the parties.

3. It is further contended that since no one had put in appearance on behalf of the review petitioners, the court should have dismissed the review petitions in default rather than deciding the same on merits. It is contended that the grounds raised in the review petitions were not mentioned in the order dated 24.11.2021. It is also contended that the land in dispute was sold by Narmada Yadav, who was a member of Scheduled Caste and any sale made by the member of Scheduled Caste was hit by Section 42 of the Rajasthan Tenancy Act, 1955. Reliance in this regard has been placed on **Rajasthan Housing Board v. New Pink City Nirman Sahkari Samiti Ltd.: (2015) 7 SCC 601.**

4. It is contended that the learned Single Judge was not justified in deciding the review petitions on merits in absence of counsel for the review petitioners. Reliance in this regard is placed on **Ghanshyam Das Gupta v. Makhan Lal: 2012 SAR (Civil) 785.** Reliance is also placed on **Roshan Lal v. State of Punjab & Ors.: (2020) 20 SCC 742**, wherein it was held that the High Court should, while deciding the review petition, advert to the contentions made in the review petition.

5. Our attention has been drawn to Order 41 Rule 17 CPC which is the provision with regard to dismissal of appeal in absence of parties.

6. Mr. Kamlakar Sharma, learned Senior Advocate assisted by Mr. Madhusudan Rajpurohit, appearing for respondent No.1 Suresh Chand Jain, has vehemently opposed the Special Appeals (Writ). It is contended that initially, the order was passed by the learned Single Judge on 31.05.2018 when the Advocates were on strike and the learned Single Judge was competent to decide the case. Reliance in this regard has been placed on **Ramom Services Pvt. Ltd. v. Subhash Kapoor & Ors.: (2001) 1 SCC 118**, wherein the Apex Court held that when the Advocate engaged by a party is on strike, there is no obligation on the part of the court either to wait or to adjourn the case on that account.

7. It is also contended that the Hon'ble Supreme Court in **Mahabir Prasad Singh v. Jacks Aviation Pvt. Ltd.: AIR 1999 SC 287** has held that no court is obliged to adjourn a case because of strike call given by any association of advocates or a decision to boycott the courts either in general or any particular court. It is the solemn duty of every court to proceed with the judicial business during court hours. No court should yield to pressure tactics or boycott calls or any kind of browbeating.

8. It is contended that the learned Single Judge has properly dealt with the entire material while allowing the writ petition and has come to the conclusion that Ladu Ram was only a representative of M/s. Fatehchand Estate Pvt. Ltd. and this fact is apparent from perusal of sale deed and the revenue records prepared thereafter. It is further contended that the sale consideration was also paid by M/s. Fatehchand Estate Pvt. Ltd. It is contended that the orders of Sub-Divisional Officer and the Divisional Commissioner were in favour of Suresh Chand Jain,

however, the Board of Revenue noted that the property was purchased by Ladu Ram, which was an incorrect fact.

9. It is also contended that Narmada Yadav was not a member of Scheduled Caste. A notification issued in this regard was placed before the learned Single Judge. There was no counter to the same by the appellants. It is also contended that right from the date of sale deed dated 18.02.1987 till the demise of Ladu Ram in 2002, he had never objected to the sale deed, wherein it was clearly mentioned that he was a representative of M/s. Fatehchand Estate Pvt. Ltd. It is contended that the learned Single Judge has rightly appreciated the material and has committed no error in allowing the writ petition filed by Suresh Chand Jain.

10. It is also contended that the State Government has not challenged the order passed by the learned Single Judge on 31.05.2018 and except for present three review petitioners, no one has challenged the said order including daughter and widow of Ladu Ram. It is further contended that the present review petitioners have sold the property vide registered sale deed, copy of which has been annexed with the reply to the review petition as Annexure-R/1 and they are contesting the present review petitions as proxy to the purchaser.

11. We have considered the contentions.

12. In the present appeal, the appellants have challenged the order dated 31.05.2018 passed in writ petition as well as the order dated 24.11.2021 passed by the learned Single Judge in review petitions.

13. Present is a case where in the original sale deed of the year 1987, name of Ladu Ram was mentioned as representative of M/s.

Fatehchand Estate Pvt. Ltd. Entire sale consideration was paid by M/s. Fatehchand Estate Pvt. Ltd. and in revenue records also, Ladu Ram was mentioned as representative of M/s. Fatehchand Estate Pvt. Ltd. Nowhere in the sale deed or in revenue records, Ladu Ram has been shown as owner or *Khatedar* of land in dispute. However, the Board of Revenue, considering Ladu Ram as owner, had allowed the appeal filed by legal representatives of Ladu Ram, which fact was properly noticed by the learned Single Judge while deciding the writ petition on 31.05.2018. After having challenged the order dated 31.05.2018 before the Division Bench, review petitioners sought permission to approach the learned Single Judge and the special appeal was disposed of permitting the review petitioners to file review petition. The review petitioners did not appear before the learned Single Judge on 24.11.2021 when the review petitions were listed for hearing. The learned Single Judge heard the senior counsel appearing for the respondents and after taking into consideration the factual aspects and the fact that there was no apparent error on the face of record, dismissed the review petitions.

14. After having devoted over three hours in hearing the appeal and having heard at length the facts of the case and contentions of learned counsel for the respondents with regard to the merits of the case and right of the appellants to challenge the order passed by the learned Single Judge in writ petition, learned Senior Advocate for the appellants stated that he wants to confine his arguments to the order passed by the learned Single Judge in review petitions. This court offered the learned Senior Advocate

appearing for the appellants to address on main appeal, but he was not keen to do so.

15. So far as, the contention of the learned counsel for the appellants that initial sale deed was hit by Section 42 of the Rajasthan Tenancy Act, 1955 is concerned, the same has no force for the very reason that the sale deed was executed by Narmada Yadav who is not a member of Scheduled Caste. Consequently, the judgment cited by the learned counsel for the appellants in **Rajasthan Housing Board v. New Pink City Nirman Sahkari Samiti Ltd.** (supra) has no applicability to the facts of this case.

16. We are of the considered view that the review petitioners have unnecessarily protracted the litigation. On perusal of the sale deed and revenue records, it is evident that Ladu Ram was not the owner of the property, he was only a representative of M/s. Fatehchand Estates Pvt. Ltd. and the company was the true owner. Ladu Ram never objected to the sale deed of 1987 till he expired in 2002. His legal representatives have no right, whatsoever, in the property in question and it is a proxy litigation on behalf of purchasers to whom they sold the property, pending litigation. We are of the concerned view that Order 41 Rule 17 CPC has no applicability to application for review of order passed under writ jurisdiction and in absence of Counsel for parties, the court is not required to dismiss in default and court can decide the review application. In totality of facts, we are not inclined to entertain the appeal qua the order dated 24.11.2021 passed by the learned Single Judge dismissing the review petitions filed by the appellants/review petitioners.

17. In view of above, the appeals are dismissed.

18. Pending applications, if any, also stand dismissed.

(VINOD KUMAR BHARWANI),J

(PANKAJ BHANDARI),J

Govind/