HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 1377/2018

Ashok Vihar Vikas Samiti

----Appellant

Versus

Mohan Singh (Deceased) Son Of Late Shri Ram Singh Khatri

----Respondent

Connected With

D.B. Special Appeal Writ No. 1378/2018

Ashok Vihar Vikas Samiti

----Appellant

Versus

State Of Rajasthan

----Respondent

For Appellant(s)	:	Mr. Saransh Saini with Ms. Suman Choudhary.
For Respondent(s)	:	Mr. Shailesh Prakash Sharma Mr. R.A. Katta with Mr. Mihir Katta and Mr. R.K. Paliwal Mr. Yashodhar Pandey on behalf of Mr. Anil Mehta
For Applicant	:	Mr. Rajesh Kumar Parashar.

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE NARENDRA SINGH DHADDHA

Order

05/08/2019

Application No. 26047/2019 has been filed in D. B. Civil Special Appeal No. 1377/2018 by the applicants Nenu son of Moti Meena and Babu son of Govinda Meena seeking their impleadment as respondents directly in the aforesaid appeal filed against the judgment passed by the learned Single Judge.

Learned Single Judge by the impugned judgment dated 07.09.2018 has set aside the judgment passed by the Board of

Revenue, which has been challenged by the appellants in the present appeals.

Learned counsel for the appellants as well as learned counsel for the writ petitioner both have opposed the aforesaid application, which has been directly filed before the Division Bench.

Mr. Saransh Saini, learned counsel for the appellants has contended that the land in dispute was sold by predecessor in title, Moti Meena father of Nenu and Govinda Meena father of Babu to one Rajeshwari on 15.09.1955. Then she filed a suit for declaration, which was decreed on 23.11.1964 declaring her as khatedar. Mutation entry in her favour was attested in the revenue record on 02.07.1966. The Tehsildar alleging transfer of the land in breach of Section 42 of the Rajasthan Tenancy Act made a reference to the District Collector, Jaipur for making a reference to the Board of Revneue under Section 82 of the Rajasthan Land Revenue Act for cancellation of mutation entry.

Mr. Rajesh Kumar Parashar, learned counsel for the applicants submitted that Moti Meena and Govinda Meena were party to the proceedings before the District Collector as would be evident from order dated 22.02.1997 passed by the Tehsildar on the application, sending the reference to the District Collector. Even in the order dated 17.11.2004 passed by the District Collector making reference to the Board of Revenue, Moti Meena and Govinda Meena through their legal heirs were arrayed as parties. In Annexure-7 also, Moti Meena and Govinda Meena through their legal heirs were also shown as respondents. Learned counsel for the applicants submitted that the applicants have filed writ petition against the judgment passed by the Board of Revenue but said writ petition has been dismissed for non-prosecution and they have filed restoration application therein.

Even though the aforesaid application is opposed by learned counsel for the appellants as also learned counsel for the writ petitioner, but considering that the applicants were respondents in the proceedings before the Tehsildar, District Collector and Board of Revenue, we deem it appropriate to direct their impleadment as respondents particularly when they have also filed writ petition against the same judgment passed by the Board of Revenue. Application No. 26047/2019 is accordingly allowed. Applicants are impleaded as respondents in D.B. Civil Special Appeal (Writ) No. 1377/2018. Amended Cause Title be filed within ten days.

List these matters on 12.09.2019, as prayed.

Till then, interim order shall continue.

(NARENDRA SINGH DHADDHA),J (MOHAMMAD RAFIQ),J

MANOJ NARWANI /28-29