

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1814-1815 OF 2015
(Arising out of S.L.P. (C) Nos.28802-28803 of 2012)

VA Friendship Solar Park
Limited & Another

Appellant(s)

Versus

State of Rajasthan and Others

Respondent(s)

O R D E R

Delay condoned.

Leave granted.

The appellants had purchased certain properties from Banwari Singh, Meera Devi, Mahender Singh, Mangtu Ram, Bhagtu Ram, Ram Chander, Kesar Devi and Balkar Singh, vide registered sale deed dated 4th January, 2011. Be it noted, the sale deeds were executed by one Bhera Ram, the General Power of Attorney Holder of the afore-named persons. After the sale deed was executed, the Tehsildar (Land Holder), Falodi, submitted an application under Sections 42(b) and 175 of the Rajasthan Tenancy Act, 1955 (for brevity, 'the Act') before the Assistant Collector, Falodi, by stating thus:

"That on 4.1.2011, Respondent nos.1 to 8 through their General Power of Attorney Sh.

Bhera Ram s/o Budha ram, caste Meharwl, Meghwalo Ka Bas, Bap Tehsil Falodi, sold 150 bigha land out of total area 2-00 Bigha in Khasra No.199/7 village Bapri barsingha to V.A. Friendship Solar Park Pvt. Ltd., Express Towers, 11th Floor, Nariman Point, Mumbai - 400021 through authorized representative Sh. Pooran Chand Bhansali s/o Parasmal, caste Oswal, resident of 28, Dendo Ka Vas, Pali. The above-said sale deed has been registered at the office of Sub-Registrar (Third) Jodhpur on 4.1.2011 vide Book No.1 Volume No.356 at page No.155 at Sr. No.2011000005. Copy of sale deed (Photocopy) is enclosed.

That Respondent Nos.1 to 8 belong to Bawri caste, which is a scheduled caste and as per section 42(B) of Rajasthan Tenancy Act, the sale made by the person of scheduled caste, to the person who does not belong to scheduled caste, will be null and void. Purchaser is not of the caste of Respondent Nos.1 to 8 i.e. scheduled caste. Therefore, sale made by the respondent Nos.1 to 8 in favour of Respondent No.9 is null and void.

That Respondent Nos.1 to 8, who belong to scheduled caste, have mentioned clearly in the sale deed that the possession of land sold has been handed over to the Respondent No.9, which is clearly a violation of Section 42(B) of the Rajasthan Tenancy Act."

After setting out the said facts, the Tehsildar prayed for taking appropriate action under Sections 42(b) and 175 of the Act.

Before the Assistant Collector could take any action, the appellants approached the High Court in D.B. Civil Writ Petition No.5822 of 2011, assailing the constitutional validity of the provision contained in Section 42(b) of the Act. The High Court upheld the

constitutional validity.

Being grieved by the decision of the High Court, the appellants preferred S.L.P.(C) No.19835 of 2011 before this Court. The special leave petition was withdrawn to file a review. Thereafter, an application for review was filed which has been dismissed by the High Court.

Mr. V. Giri, learned senior counsel appearing for the appellants, very fairly stated that the constitutional validity of Section 42(b) of the Act cannot be questioned at this juncture. However, it is contended by him that right of the appellants cannot be foreclosed to contest the dispute before the Assistant Collector, Falodi, to show that the vendors of the appellants do not belong to the scheduled caste.

In our considered opinion, the submission of Mr. Giri is justified. The High Court, as is manifest, has only dealt with the constitutional validity, as there was no necessity to advert to any of the aspects. Therefore, there is no impediment on the part of the appellants to contest the matter before the Assistant Collector, Falodi, for whatever rights the appellants have, cannot be destroyed without affording an opportunity of hearing them.

In view of the aforesaid, while not interfering with the order passed by the High Court, it is directed that the appellants shall appear before the Assistant Collector,

Falodi, on 9th April, 2015, receive the show cause and offer their explanation and, thereafter, the Assistant Collector shall proceed in accordance with law. Needless to emphasise, the appellants are entitled to avail all statutory remedies as provided under the Act.

The appeals are, accordingly, disposed of. There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(Adarsh Kumar Goel)

New Delhi;
February 11, 2015.

ITEM NO.8

COURT NO.6

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) Nos.28802-28803/2012

(Arising out of impugned final judgment and order dated 26/04/2012 in DBCRP No. 5/2012,26/04/2012 in DBCWP No. 5822/2011,15/07/2011 in DBCWP No. 5822/2011 passed by the High Court of Rajasthan at Jodhpur)

VA FRIENDSHIP SOLAR PARK PVT.LTD. & ANR

Petitioner(s)

VERSUS

STATE OF RAJASTHAN & ORS.

Respondent(s)

Date: 11/02/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Petitioner(s) Mr. V. Giri, Sr. Adv.
Mr. Vivek Chib, Adv.
Mr. Noby P. Varghese, Adv.
Mr. Neeraj Shekhar, AOR

For Respondent(s) Mr. S.S. Shamshery, Adv.
Mr. Amit Sharma, Adv.
Mr. Sandeep Singh, Adv.
Ms. Ruchi Kohli, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeals are disposed of in terms of the signed
order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)