

Rajasthan High Court - Jodhpur

Smt. Saroj Devi vs State Of Rajasthan on 2 February, 2021

Bench: Manoj Kumar Garg

(1 of 7) [CW-9438/2018] HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR (1)  
S.B. Civil Writ Petition No. 9438/2018 Gopal Patel S/o Subtaramji, Aged About 58 Years, By Caste  
Ghanchi, Krishnapuri, Adarsh Nagar Road, Sirohi

----Petitioner Versus

1. State Of Rajasthan, Through Tehsildar, Sirohi

2. The District Collector, Sirohi

----Respondents Connected With (2) S.B. Civil Writ Petition No. 4839/2018 Smt. Leela Devi W/o  
Shri Kanhaiya Lal Ji Mali, By Caste Mali, Resident Of Krishnapuri, Adarsh Nagar Road, Sirohi

----Petitioner Versus

1. State Of Rajasthan, Through - Tehsildar, Sirohi.

2. The District Collector, Sirohi.

----Respondents (3) S.B. Civil Writ Petition No. 9442/2018 Sita Devi W/o Shri Darga Ji, Aged About  
63 Years, By Caste Mali, Krishnapuri, Adarsh Nagar Road, Sirohi

----Petitioner Versus

1. State Of Rajasthan, Through Tehsildar, Sirohi

2. The District Collector, Sirohi

----Respondents (4) S.B. Civil Writ Petition No. 9450/2018 Shanti Devi Spouse/o Jogaram Ji, Aged  
About 68 Years, B/c Ghanchi , Krishnapuri, Adarsh Nagar Road, Sirohi

----Petitioner Versus

1. State Of Rajasthan, Through Tehsildar, Sirohi

2. The District Collector, Sirohi

----Respondents (2 of 7) [CW-9438/2018] (5) S.B. Civil Writ Petition No. 9459/2018 Pushpa Devi  
W/o Shri Sitaram Ji, Aged About 68 Years, By Caste Mali, Krishnapuri, Adarsh Nagar Road, Sirohi.

----Petitioner Versus

1. State Of Rajasthan, Through- Tehsildar Sirohi.

2. The District Collector, Sirohi.

----Respondents (6) S.B. Civil Writ Petition No. 9567/2018 Dilip Singh S/o Shri Mool Singh Ji, Aged About 65 Years, By Caste Suthar, Krishnapuri, Adarsh Nagar Road, Sirohi.

----Petitioner Versus

1. State Of Rajasthan, Through- Tehsildar, Sirohi.

2. The District Collector, Sirohi.

----Respondents (7) S.B. Civil Writ Petition No. 9569/2018 Manju Devi W/o Shri Ramesh Kumar Ji, Aged About 59 Years, By Caste Ghanchi, Krishnapuri, Adarsh Nagar Road, Sirohi.

----Petitioner Versus

1. State Of Rajasthan, Through- Tehsildar, Sirohi.

2. The District Collector, Sirohi.

----Respondents (8) S.B. Civil Writ Petition No. 9690/2018 Amrit Lal S/o Ganeshaji, Aged About 61 Years, By Caste Mali, Krishnapuri, Adarsh Nagar Road, Sirohi

----Petitioner Versus

1. State Of Rajasthan, Through Tehsildar, Sirohi

2. The District Collector, Sirohi

----Respondents (9) S.B. Civil Writ Petition No. 9692/2018 Mohan Lal S/o Oataram Ji Suthar, Aged About 63 Years, By Caste Suthar, Krishnapuri, Adarsh Nagar Road, Sirohi (3 of 7) [CW-9438/2018]

----Petitioner Versus

1. State Of Rajasthan, Through Tehsildar, Sirohi

2. The District Collector, Sirohi

----Respondents (10) S.B. Civil Writ Petition No. 9879/2018 Lehri Bai W/o Shri Lala Ram Ji Patel, Aged About 61 Years, By Caste Ghanchi, Krishnapuri, Adarsh Nagar Road, Sirohi

----Petitioner Versus

1. State Of Rajasthan, Through Tehsildar, Sirohi

2. The District Collector, Sirohi

----Respondents (11) S.B. Civil Writ Petition No. 11328/2018 Shanker Singh S/o Late Shri Wagat Singh, Aged About 49 Years, By Caste Rajput, Krishnapuri, Adarsh Nagar Road, Sirohi.

----Petitioner Versus

1. State Of Rajasthan, Through- Tehsildar, Sirohi.

2. The District Collector, Sirohi.

----Respondents (12) S.B. Civil Writ Petition No. 11332/2018 Sita Devi W/o Shri Dhanraj Ji Patel, Aged About 61 Years, By Caste Ghanchi, Krishnapuri, Adarsh Nagar Road, Sirohi.

----Petitioner Versus

1. State Of Rajasthan, Through- Tehsildar, Sirohi.

2. The District Collector, Sirohi.

----Respondents (13) S.B. Civil Writ Petition No. 11371/2018 Smt. Saroj Devi W/o Shri Shanker Lal Ji Ghanchi, Aged About 61 Years, By Caste Ghanchi, Resident Of Krishnapuri, Adarsh Nagar Road, Sirohi.

----Petitioner

Versus

(4 of 7)

[CW-9438/2018]

1. State Of Rajasthan, Through - Tehsildar, Sirohi.

2. The District Collector, Sirohi.

----Respondents

For Petitioner(s) : Mr. Suniel Purohit  
For Respondent(s) : Mr. Ram Dayal

02/02/2021

1. The present bunch of writ petitions involve a challenge to proceedings of revision initiated by the Tehsildar - Sirohi for setting aside registered pattas which have been issued in petitioners' favour.

2. As facts and questions to be determined are common and identical, all these petitions are being decided simultaneously;

however, for the purpose of clarity, facts of SB Civil Writ Petition No.9438/2018 (Gopal Patel Vs. State of Rajasthan & Anr.) are being taken into reckoning.

3. The petitioner herein was conferred title over a land admeasuring 1250 sq. feet area of Khasra No.1218 of Revenue Village, Sirohi (on the basis of his possession), by the Municipal Council, Sirohi. A registered patta dated 13.01.2015 in this regard came to be issued in his favour.

4. The respondent - Tehsildar tried to dispossess the petitioner in spite of the fact that he was having registered patta for which the petitioner filed a civil suit along with application for temporary injunction. Learned Civil Judge allowed application for temporary injunction vide its order dated 27.09.2016 and directed the (5 of 7) [CW-9438/2018] respondents not to dispossess the petitioner, without adopting due process of law.

5. It appears that in light of the injunction granted by the Trial Court, the Tehsildar - Sirohi moved an application under Section 312 & 327 of the Rajasthan Municipalities Act, 2009 (herein referred to as "the Act of 2009") and requested the District Collector to quash the registered patta deed No.10 so granted in favour of the petitioner.

6. The Tehsildar alleged in his revision application that the subject land did not belong to the Municipal Council and the same was Govt. land and thus, the Municipal Council did not have any authority to grant patta in petitioner's favour.

7. A notice dated 13.03.2018 came to be issued by the District Collector Sirohi, whereagainst the petitioners have preferred the present writ petition.

8. Mr. Suniel Purohit, learned counsel for the petitioners, argued that impugned proceedings initiated by the Collector are without jurisdiction and contrary to settled position of law.

9. Learned counsel submitted that the District Collector in exercise of his revisional powers, can neither question the legality of registered patta nor can he set aside the same.

10. It is also argued that grant of patta or execution of registered conveyance deed/lease deed confers an irreversible property/civil right in favour of the citizen, which cannot be set at naught in exercise of executive power and a registered patta can only be quashed and set aside by competent Civil Court.

11. In support of his contentions aforesaid, learned counsel relied upon the judgment of this Court rendered in case of Ramchandra Vs. The District Collector, Hanumangarh & Ors (6 of 7) [CW-9438/2018] reported in 2016 (3) WLC (Raj.) 627. Learned counsel also pointed out that Division Bench vide its order dated 01.11.2017 affirmed the aforementioned Single Bench judgment in the case of Ramchandra (supra). Court's attention was also drawn to another judgment dated 20.09.2018 rendered in case of Naina Ram Vs. State of Rajasthan & Ors. (SBCWP No.11033/2015) to submit that in identical matter, Coordinate Bench has allowed the writ petition involving such issue.

12. Mr. Ram Dayal, Deputy Government Counsel appearing for Tehsildar inviting Court's attention towards jamabandi of the subject land submitted that the Municipal Council did not have the authority to allot the land, as the subject land was recorded as Government land in the revenue record.

13. It was also argued that since the land did not belong to Municipal Council, the decision to grant patta and the issuance of Patta was per se without jurisdiction and thus, the District Collector/State Government in exercise of its revisional powers can set aside or quash the said decision.

14. Learned counsel appearing for the State was however, not in a position to bring to the notice of this Court any view contrary to the law laid down in Ramchandra's case (supra) by this Court or by Hon'ble the Supreme Court.

15. Having regard to the submissions made by rival counsel and after considering the Judgment of Ramchandra (Supra), this Court is of the considered view that registered patta granted in favour of petitioners cannot be annulled by the District Collector or any revisional authority in exercise of its revisional power.

16. The registered patta can only be questioned in a suit or set aside by a Civil Court.

(7 of 7) [CW-9438/2018]

17. Indisputably, all the petitions lay challenge to revisional proceedings initiated by the Tehsildar and the plots of the land of all the petitioners are adjoining or are situated at the same khasra.

18. This being the position, all the writ petitions are allowed;

impugned notices dated 13.03.2018 issued to the petitioner(s) herein and proceedings in furtherance thereof, are quashed.

19. Needless to observe that State shall be free to file a Civil suit (if so desired) in accordance with law.

20. Observations made by this Court will not prejudice rights of either of the parties, as this Court has not pronounced upon merit of petitioners' rights in any manner.

21. Stay application also stands disposed of accordingly.

(DINESH MEHTA),J 102-114-Amar/-

Powered by TCPDF ([www.tcpdf.org](http://www.tcpdf.org))