

State of Rajasthan

Vs

Rao Raja Sardar Singh

Civil Appeal No. 260 of 1969

(Syed M. Fazal Ali, P. N. Shinghal JJ)

11.08.1978

JUDGMENT

SHINGHAL, J. -

1. The State of Rajasthan has filed this appeal by certificate against the judgment of the Rajasthan High Court, dated March 13, 1968, by which its writ petition for quashing the order of the Board of Revenue, Rajasthan, Ajmer, dated January 13, 1964, in case No. 1/1962/Tonk "to enable the petitioner" to recover Rs. 5,94,215.30, "according to law" was dismissed.

2. It was stated in the writ petition that the lands of the Uniara jagir, in Aligarh tahsil of Tonk district, vested in the Rajasthan State on their resumption under the provisions of the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952, hereinafter referred to as the Act. The Jagir Commissioner therefore took up the question of determining the compensation which was payable to Rao Raja Sardar Singh who was then, the jagirdar of Uniara. In that connection a certificate was filed before the Jagir Commissioner in Form 10 under Rule 37-C of the Rajasthan Land Reforms and Resumption of Jagirs Rules, 1954, certifying that a sum of Rs. 5,49,234/12/3 should be recovered from the Jagirdar's compensation and rehabilitation grant on account of "revenue dues". The jagirdar raised several objections before the Jagir Commissioner, but it was urged on behalf of the State that the sum of Rs. 5,49,234/12/3 was the unpaid amount of the liability of Rs. 5,54,226/13/6, which was payable under a resolution of the Jaipur State Council dated July 1, 1936. After adding the sum of Rs. 44,980.53 on account of arrears of tribute, the total realisable amount was stated to be Rs. 5,94,215.30. As the State was not able to give a proper account of the dues, the Jagir Commissioner made an order dated February 14, 1961, that the amount mentioned in the aforesaid certificate (in Form 10) could not be deducted. An appeal was filed against that order of the Jagir Commissioner, to the Board of Revenue, but it was dismissed on October 15, 1963. The State contended that it was challenging the decisions of the Jagir Commissioner and the Board of Revenue "in separate proceedings", but that was not done and it is not in dispute before us that the Jagir Commissioner's order dated February 14, 1961, which was upheld by the Board's decision dated October 15, 1963, became final.

3. In the mean time, the Tahsildar of Aligarh issued a demand notice on November 3, 1961, which was revised on December 22, 1961, for the recovery of Rs. 5,94,215.30 under Section 229 of the Rajasthan Land Revenue Act, 1956. The jagirdar raised an objection that the Tahsildar had no jurisdiction to issue the demand notice because of the Jagir commissioner's earlier order dated February 14, 1961 (which had become final and binding on the parties after the Board's judgment dated October 15, 1963), but the Tahsildar rejected it by his order dated December 22, 1961. As the jagirdar did not pay the amount which was claimed under the demand notice, proceedings were

started for attachment and sale of his property, and the jagirdar made an application to the Board of Revenue for a revision of the Tahsildar's order. It was allowed by the order of the Board dated January 13, 1964. The Board took the view that although the certificate for recovery had been sent to the Jagir Commissioner in Form 10, the required particulars were not furnished in spite of several opportunities, and that as the State Government's claim for the recovery of the money had been completely rejected on an earlier occasion by the Jagir Commissioner's order dated February 14, 1961, and the Jagir Commissioner's order dated February 14, 1961, and the Jagir Commissioner had refused to deduct that amount from the compensation with reference to the provisions of Sections 22(1)(e), 32(1)(b) and 34 of the Act, the jurisdiction of the Revenue Court in respect of the same dues was barred by Section 46 of the Act and the proceedings which had been taken under Section 257A of the Rajasthan Land Revenue Act were without jurisdiction. As the Board quashed the order of the Tahsildar dated December 22, 1961, the State Government filed the writ petition, which has given rise to this appeal, in the High Court, for the recovery of the "revenue dues" mentioned in the certificate in Form 10, and feels aggrieved because of its dismissal by the impugned judgment dated March 13, 1968.

4. It may be mentioned that the jagirdar traversed the State Government's claim in the writ petition altogether. He contended that he never agreed to the Jaipur State Council resolution of July 1, 1936, and he was never informed of the dues claimed by the State. He denied that any amount was due on account of land revenue or tribute, and averred that no lone had been taken by the Uniara Jagir from the State Government. It was contended further that the Jagir Commissioner wanted to make an inquiry into the State Government's claim for the recovery of the amount stated in the certificate in Form 10, but the State did not produce the account or proof of the dues so that the claim remained unexplained. That, according to the jagirdar, was the reason why the Jagir Commissioner held in his order dated February 14, 1961, that the amount could not be deducted from the compensation. As the appellate order of the Board of Revenue dated October 15, 1963, upheld the Jagir Commissioner's order, it was pleaded that it became final and conclusive and could not be challenged by taking up the proceedings under the Rajasthan Land Revenue Act which were in fact barred by Section 46 of the Act.

5. In its impugned judgment in the writ petition, the High Court has taken the view that the determination of the State's dues was a matter which was required to be settled, decided or dealt with by the Jagir Commissioner and that, by virtue of Section 46 of the Act, a Civil or Revenue Court had no jurisdiction in respect of it. Reference has been made to Section 47 of the Act which provides that its provisions shall have effect notwithstanding anything therein contained being inconsistent with any existing Jagir Law or any other law for the time being in force. The High Court has taken note of the provisions of Section 34(2) of the Act also and has held that no other authority, be it the civil or the revenue court, can go behind" the Jagir Commissioner's decision in that respect and make a recovery from the jagirdar by setting at naught the Jagir Commissioner's order in that respect. The High Court has thus upheld the Board's decision dated January 13, 1964, against the State of Rajasthan, by which the proceedings which were taken for the recovery of the money under the Rajasthan Land Revenue Act were quashed.

6. We find from the High Court's impugned judgment that the point of controversy there was whether the machinery provided under the Rajasthan Land Revenue Act could not be resorted to in face of the provisions of Sections 46 and 47 of the Act. The High Court examined that question only, and we shall confine ourselves to it.

7. The controversy thus is whether it was permissible for the State to recover the aforesaid arrears of

"revenue dues" even after the Jagir Commissioner's order dated February 14, 1961, under Section 32(2) of the Act by which he clearly determined that the money was not recoverable from the jagirdar under clauses (e) of sub-section (1) of Section 22 of the Act and ordered that it may not be deducted from the final amount of the jagirdar's compensation. In other words, the question is whether that order was final and no Civil or Revenue Court had jurisdiction to reopen it as it related to a matter which was required to be settled or decided or dealt with by the Jagir Commissioner, or whether this was not so and the proceedings under the Rajasthan Land Revenue Act were competent? In order to arrive at a decision, it will be necessary for us to refer to the relevant provisions of the Act so that its scheme and scope may be understood and applied to the controversy.

8. The Act (No. VI of 1952) came into force with effect from February 18, 1952. It provides for the resumption of jagir lands and other measures of land reforms, and extends to the whole of the State of Rajasthan. Section 2(g) of the Act defines Jagirdar", and it is not in controversy that Rao Raja Sardar Singh was the jagirdar of the Uniara Jagir at the relevant time. Clause (h) of Section 2 defines "Jagir-land". Section 21 of the Act provides for the resumption of jagir lands on the appointed date, and once again there is no controversy that the jagir lands of Uniara were so resumed.

9. Section 22 of the Act states the consequences of resumption. Clause (e) of sub-section (1) of that section provides as follows, -

(e) all arrears of revenue, cesses or other dues in respect of any jagir land due from the jagirdar for any period prior to the date of resumption including any sum due from him under clause (d) and all loans advanced by the Government or the Court of Wards to the jagirdar shall continue to be recoverable from such jagirdar.

The clause thus expressly provides for the jagirdar's liability to pay, inter alia, all arrears of revenue, cesses or other dues in respect of his jagir land. Section 30 deals with the recovery of such arrears and we shall revert to it after making a reference to Section 26 which deals with the State Government's liability to pay compensation to every jagirdar for the resumption of his jagir land. That is the subject-matter of Chapter VI and Section 30 thereof reads as follows, -

30. Dues and debts. - The amounts due from a jagirdar under clause (e) of sub-section (1) of Section 22 shall be recoverable out of the compensation payable to him under Section 26.

Chapter VII deals with the payment of compensation. Section 31 of that chapter requires every jagirdar to file a statement of claim for compensation before Jagir Commissioner. Item (v) of sub-section (2) of that section provides that the statement of claim shall contain the following particulars also, -

(v) the amount of dues and debts recoverable from the jagirdar under clause (e) of sub-section (1) of Section 22;

These provisions, read together, thus provide for the continuance of the jagirdar's liability to the payment of the arrears of revenues, cesses and other dues, in respect of the jagir land, which were due from him for any period prior to the date of resumption of the jagir, out of the compensation payable to him for the loss of the jagir lands, and a duty has been cast on him to make a specific mention of the amount of the dues and debts recoverable from him under Section 22(1)(e), in the statement of his claim for compensation.

10. Then comes Section 32 which deals with the determination of the compensation after making such inquiry as the Jagir Commissioner may deem necessary. Here again sub-section (1) of that section makes it obligatory for the Jagir Commissioner to provisionally determine, -

(b) the amount recoverable from the jagirdar under clause (e) of sub-section (1) of Section 22 Sub-section (2) requires that a copy of the provisional order shall be served on the Government, the jagirdar and every other interested person, and the Jagir Commissioner shall, after giving all of them a reasonable opportunity of being heard in the matter, "make a final order". That order would therefore be a final order in respect of the aforesaid item (b) of the amount recoverable from the jagirdar under clause (e) of sub-section (1) of Section 22 also. In other words, the Act provides that the order under sub-section (2) of Section 32 would be final in respect of the items mentioned in it, including the amount recoverable from the jagirdar under clause (e) of sub-section (1) of Section 22. Section 33 requires the Jagir Commissioner to communicate the "final order" under Section 32(2) to the Government, the jagirdar and every other interested person.

11. Next is Section 34, which provides the mode for the recovery of the aforesaid dues. Sub-section (1) of that section is to the following effect, -

34. Dues and deductions how payable. - (1) The amounts recoverable from a jagirdar under clause (e) of sub-section (1) of section 22 and those determined in an order made under sub-section (2) of Section 32 shall be deducted from the compensation payable to him under Section 26.

Sub-section (2) of that section provides that the amount so finally determined, namely, the amount recoverable, inter alia, under clause (e) of sub-section (1) of Section 22 shall be payable in instalments. The sub-sections make clear references to clause (e) of sub-section (1) of Section 22 and Section 32 in providing for the deduction of the amounts determined thereunder from the compensation payable to the jagirdar under Section 26.

12. Section 35 deals with the payment of compensation. It will be sufficient for us to refer to the first two sub-sections which read as follows, -

35. Payment of compensation. - (1) After the amount of compensation payable to a jagirdar under Section 26 is finally determined under sub-section (2) of Section 32 and the amounts specified in clauses (b), (c) and (e) of that section as finally determined are deducted therefrom, the balance shall be divided into fifteen equal annual instalments or at the option of the jagirdar into thirty equal half-yearly instalments.

(2) The amounts finally determined under each of the clauses (b), (c) and (e) of sub-section (1) of Section 32 shall be deducted and paid to each of the persons entitled thereto from every installment referred to in sub-section (1) and the remaining amount of the instalment shall be payable by Government to the jagirdar.

Thus sub-section (2) of section 32, Section 33, sub-section (2) of Section 34 and sub-sections (1) and (2) of Section 35 taken together categorically provide that the Jagir Commissioner's order determining, inter alia, the amount recoverable from the jagirdar under clause (e) of sub-section (1) of Section 22 shall be final, and that it shall be deducted from the compensation payable to the

jagirdar under Section 26.

13. The Act thus contains a comprehensive scheme for the determination of the amount of dues and debts recoverable by the State from the jagirdar in respect of the jagir land and their lands and their deduction from the amount of compensation payable to him. The question of appeal has been dealt with in Section 39. Sub-section (1) of the section specifically provides for an appeal against : "any decision" of the Jagir Commissioner, inter alia, under sub-section (2) of Section 32, to the Board of Revenue, and sub-section (4) declares that the decision of the Board in an appeal under the section shall be final.

14. Then comes Section 46 which raises the bar of jurisdiction. It provides as follows, -

46. Bar of jurisdiction. - (1) Save as otherwise provided in this Act, no Civil or Revenue Court shall have jurisdiction in respect of any matter which is required to be settled, decided or dealt with by any officer or authority under this Act.

(2) No order made by any such officer or authority under this Act shall be, called in question in any Court.

So where it is shown that any "matter" which is required to be settled, decided or dealt with by any officer or any authority under the Act, e.g., the Jagir Commissioner or the Board of Revenue, has been so settled, decided or dealt with, it shall not be permissible for any Civil or Revenue Court to settle, decide, or deal with it, except where there is a contrary provision in that behalf in the Act itself. It is also the mandate of sub-section (2) that no order of any such officer or authority shall be open to challenge in any Court.

15. These provisions of the Act are quite adequate and comprehensive and, read with the relevant Rules, they provide for the determination and recovery of the amounts use from the jagirdar on account of the jagir lands. This has to be so because when the Act provides for the resumption of the jagir lands and thereby denudes the jagirdar of his resources, it is fair and reasonable that it should make provision for the determination and recovery of the amount recoverable from the jagirdar under Section 22(1)(e). The provisions of the Act to which reference has been made above and the Rules made thereunder, are therefore a comprehensive code concerning the liability of the jagirdar.

16. If these provisions are applied to the facts and circumstances of the present case, it would appear that the following facts have been well established.

17. The State laid a claim for the recovery of Rs. 5,49,234/12/3 in Form 10, exclusively on the ground that they were revenue dues of the jagirdar for a period prior to the resumption of the jagir lands. The Jagir Commissioner asked for information for the determination of the State Government's claim with particular reference to clause (b) of sub-section (1) of Section 32 as respects the amount recoverable from the jagirdar under clause (e) of sub-section (1) of Section 22, and made his final order on February 14, 1961. It is not controverted before us that he did so after complying with the requirements of the law, and communicated his decision to the Government and the jagirdar under Section 33. As the Jagir commissioner's order under sub-section (2) of Section 32 was against the State Government, nothing was deductible on account of the State Government's claim in Form 10, under Section 34 of the Act, on account of the liability claimed under clause (e) of sub-section (1) of Section 22 and clause (b) of sub-section (1) of Section 32. So when the final determination of that claim was 'nil,' inasmuch as it was held that nothing was recoverable from the

jagirdar on account of the "revenue dues", it inevitably followed that no deduction was permissible from the compensation payable to him. The decision was disadvantageous to the State and it preferred an appeal to the Board of Revenue but, as has been stated, it was dismissed on October 15, 1963. It will be recalled that even though it was stated in the writ petition that the State was challenging the decisions of the Jagir Commissioner and the Board of Revenue "in separate proceedings", no such action was taken. The fact therefore remains that as the order had been made by the Jagir Commissioner under the provisions of the Act, and as there was no provision in the Act for challenging it otherwise what by an appeal to the Board of Revenue which was dismissed, the High Court was right in raising the bar of Section 46 and in holding that no Civil or Revenue Court had jurisdiction in respect of the controversy as it was a matter which had been finally decided by the Jagir Commissioner and the Board of Revenue under the provisions of the Act. The belated attempt by the State to get over the bar by instituting proceedings under Section 229 or Section 257A of the Rajasthan Land Revenue Act, was therefore illegal, and was set aside by the Board's decision dated January 13, 1964. The objection against it had no merit, and has rightly been rejected by the impugned judgment of the High Court dated March 13, 1968.

18. It was argued on behalf of the appellant that the resolution of the Jaipur State Council dated July 1, 1936, was the final adjudication of the liability of the Uniara jagir for the payment of the amount mentioned in it, to the State, and was really in the nature of a decree which the Jagir Commissioner had no jurisdiction to examine under Section 32 or any other section of the Act and the Jagir Commissioner's order dated February 14, 1961 was therefore quite illegal and could well be ignored by the State for the purpose of taking action under Section 257A of the Rajasthan Land Revenue Act. We find that a similar argument was urged for the consideration of the High Court, but was rejected for satisfactory reasons. The State did not even care to produce the Council resolution before the Jagir Commissioner and, as has been stated, the jagirdar took the plea in his reply to the writ petition that he never agreed to the passing of that resolution, he was never informed of the alleged arrears for which the resolution was said to have been passed, and nothing was payable by him on account of "revenue dues". He therefore asked the Jagir Commissioner to make an inquiry into the matter. That was undertaken by the Jagir Commissioner under the relevant provisions of the Act, to which reference has been made already. It will be recalled that the State Government filed an appeal against the adverse decision of the Jagir commissioner, but it was dismissed, and the appellate decision of the Board became final under sub-section (4) of Section 39 of the Act. We have dealt with the consequences which arose from that decision by virtue of the bar of jurisdiction under Section 46.

19. It was further argued on behalf of the appellant that the Jagir Commissioner's order under Section 32 of the Act could possibly relate only to his final order in regard to the amount recoverable from the jagirdar, inter alia, under clause (e) of sub-section (1) of Section 22 of the Act, for the purpose of enabling its deduction from the jagirdar's compensation under Section 34, but could not possibly, bar a civil action for it may well be that, in a given case, the amount of compensation may fall short of the amount recoverable from the jagirdar. It will be enough to say that such a possibility could not arise in the instant case inasmuch as the net compensation payable to the jagirdar was Rs. 16,00,000, which was far in excess of his liability to the State. Reference in this connection may also be made to Rule 37-C(4) of the Rajasthan Land Reforms and Resumption of Jagir Rules, 1954, which casts a duty on the Jagir Commissioner not only to effect the deduction of the amount payable by the jagirdar, under Section 34, but also for the deduction of the balance from the rehabilitation grant payable to him under Section 38C of the Act. The said rule casts a duty on the authority to whom the amount is payable by the jagirdar, to take necessary steps for the adjustment of the recovery so effected, and "further recovery of the balance, if any, that might

remain outstanding against the jagirdar." There could therefore be no occasion for the recovery of any balance of revenue dues by civil action in the facts and circumstances of this case.

20. The appellant's learned counsel made a reference to several cases including Ullal Venkatraya Kini v. Louis Souza (AIR 1960 Mys 209); G. Venkatachala Odayar v. Ramachandra Odayar (AIR 1961 Mad 423); Kulandaiswami Madurai v. Murugayya Madurar (AIR 1969 Mad 14); Rameshwar Prasad v. Satya Narain (AIR 1954 All 115); Gurbasappa Mahadevappa v. Neelkanthappa Shivappa (AIR 1951 Bom 136); A. R. Sarin v. B. C. Patil (AIR 1951 Bom 423) and Shivashankar Prasad Shah v. Baikunth Nath Singh ((1969) 3 SCR 908), for the purpose of showing that every adjudication of a dispute can not oust the jurisdiction of a civil Court could not be said to have been ousted.

21. As we find no force in this appeal, it is dismissed with cost.

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