

# SUPREME COURT OF INDIA

Chanan Kaur

Vs.

Board of Revenue, Rajasthan

C.A.No.2142 of 1998

(Brijesh Kumar and Arun Kumar JJ.)

01.04.2004

## JUDGMENT

### **Brijesh Kumar, J.**

1. The dispute in this appeal relates to allotment of lands in favour of respondent No.3 Rattan Singh. Initially it appears that 12 Bighas 10 Biswas of land was allotted to Mohinder Singh, the late father of appellant Nos.2 & 3 and husband of appellant No.1. Mohinder Singh died sometime in 1970 and thereafter it appears that half of the land of 12 Bighas 10 Biswas had been allotted to respondent No.3 Rattan Singh, who happened to be the brother of late Mohinder Singh. It also transpires that the case of the respondents has been that after the death of Mohinder Singh, the land in question was surrendered which, it appears, gave rise to fresh allotment. But at the same time we also find that the case of the appellants has been that the land was never surrendered. The objections raised against the allotment of land made in favour of Rattan Singh have not been considered on the ground that the appellants had no right or locus standi to challenge the allotment. That seems to be the main ground throughout, on the basis of which the authorities have decided the cases arising out of this dispute at different stages. We feel if the fact is that the land allotted to late Mohinder Singh was not surrendered no occasion would have arisen for fresh allotment of the land to any one. In such a situation the locus standi of the appellants could not be doubted. No enquiry into that aspect of the matter, relating to the alleged surrender seems to have been made by any authority at any stage except for mention of the fact in one of the orders, that the counsel for the respondents had made available some certified copy of the surrender application, which at another place is mentioned as the report of the Patwari. The things as they exist are far from clear and seems to have escaped notice of the authorities who have concentrated on the question of locus standi of the appellants. Needless to emphasize that the locus standi shall depend upon the facts of the case. It is also not clear as to whether the land was surrendered by late Mohinder Singh, in whose favour it was initially allotted during his life time or by his heirs, namely the present appellants. In that connection also the stand of the respondents, including the State, is not very clear. At one stage it is sought to be argued that such allotment to landless people was meant only for personal purposes, meaning thereby such allotment will go on the death of the allottee. If that is so, it is not understandable how the

question of surrender would arise and in what circumstances half of the land allotted to late Mohinder Singh would be allotted to Rattan Singh. We also find that much importance has been attached to the fact that the appellants had also applied for allotment sometime in 1994. Be that as it may, it hardly makes out any case in favour of the respondents. The appellants had raised objections against the allotment in favour of respondent No.3 at very early stage. No inference can be drawn by the fact that they had also later applied for allotment.

2. We find that the learned Single Judge of the High Court has also gone by the question of locus standi and the Division Bench passed the order which is certainly cursory, least to say. We feel it is a matter which requires proper consideration afresh, taking into account the case of the respondents of surrender of the land by the appellants and the availability of the land for fresh allotment, once having been allotted in favour of late Mohinder Singh.

3. In view of the discussions held above, we allow the appeal, set aside the Judgment and Order passed by the High Court and remand the matter for being considered by the Division Bench, in the light of the observations made above. Since the matter is quite old it is expected that it shall be decided expeditiously. No order as to costs.

4. Heard the learned counsel for the parties for about half an hour.

5. The appeal is allowed, the Judgment and Order passed by the High Court is set aside and the matter is remanded for being considered by the Division Bench in light of the observations made in the signed order. No order as to costs.