

ITEM NO.101

COURT NO.3

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

Civil Appeal No(s). 6677/2019

THE STATE OF RAJASTHAN AND ORS. & ORS.

Appellant(s)

VERSUS

LORD NOTHBOOK AND ORS.

Respondent(s)

([TO GO BEFORE THREE HON'BLE JUDGES]

IA No. 107782/2021 - CHANGE OF ADVOCATE ON RECORD)

IA NO. 93600/2020- PERMISSION TO FILE ADDITIONAL DOCUMENTS

IA NO. 93602.2020- EXEMPTION FROM FILING OT.

IA NO. 93603/2020- EXMEPTION FROM FILING AFFIDAVIT

IA NO. 117030/2020-IMPLEADMENT

IA NO. 42568/2021-APPROPRIATE ORDERS/DIRECTIONS

IA NO. 133938/2022- PERMISSION TO FILE ADDITONAL DOCUMENTS

IA NO. 133942/2022- EXEMPTION FROM FILING O.T.

Date : 22-09-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s)

Dr. Manish Singhvi, Sr. Adv.

Mr. Arpit Parkash Adv.

Mr. Vikalp Sharma, Adv.

Mr. Milind Kumar, AoR

For Respondent(s)

Dr. A.M. Singhvi, Sr. Advocate

Mr. Mahesh Agarwal, Advocate

Mr. Rishi Agrawala , Advocate

Mr. Anshuman Srivastava, Advocate

Ms. Lakshmi S. Iyer, Advocate

Mr. E. C. Agrawala, AOR

Mr. Paras Kuhad, Sr. Adv.

Mr. Kumar Mihir, AOR

Mr. Vivek Kumar, Adv.

Ms. Priyanka, Adv.

Mr. Devadatt Kamat, Sr. adv.

Mr. Nishit Agrawal, Adv.

Mr. Devendra Raghava, Adv.

Ms. Rajeshwari Hariharan , Adv.

Mr. Harsh Pandey, Adv.
Ms. Kanishka Mittal, Adv.

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

IA No. 107782/2021, for change of the
Advocate is allowed.

Applications for permission to file
additional documents, exemption from filing O.T,
exemption from filing affidavit are allowed.

The Estate of erstwhile Maharaja of Khetri, Shri
Raja Sardar Singh forms the subject matter of the
present proceedings in respect of which the State of
Rajasthan exercised its rights under the Rajasthan
Escheats Regulation Act, 1956 predicated on a
reasoning that there was no legal representatives who
would inherit the estate.

The factual scenario is that there is an
alleged Will of late Raja, who expired on 28.01.1987,
dated 13.10.1985 read with codicil dated 07.11.1985,
whereby he created a public charitable trust with
eminent persons as trustees. The Rights that the
Trust may have in the property in turn depends on
its ability to establish the legality of the
execution of the Will. In respect of this Will
probate proceedings were filed before the Delhi High
Court being Test Case No. 26/1987 but the claim of
the Trust was rejected on 03.07.2012 after quarter of

a Century. Thereafter began the second round in appeal and that appeal has already seen a decade of pendency. The pendency of this appeal has created manifest problems as the management of the estate is in question. We may also notice that some of the persons claiming to be cognates and agnates, four of them represented by Mr. Paras Kuhad and one of them by Mr. Devadatt Kamat appear to have not been interested in claiming any rights in the property as long as the the Trust managed the property. Their stand is obviously clear i.e., if the Trust does not get it then they assert their rights and not that the property should go in escheat proceedings. One of the cognates/agnates who now seeks to raise the issue has woken up after 34 years and that itself would be a question mark for assertion of any right vis-a-vis the Trust when the person also never contested the probate proceedings. The said person Mr. Surendra Singh Shekhawat however contested the escheat proceedings before the Collector and appeal is now pending before the Board of Revenue. An appeal was also preferred by the other four cognates represented by Mr. Kuhad.

It is the challenge to the escheat proceedings by the Trust that has given rise to the impugned judgment in favour of the Trust on the basis that there were defects in exercise of the rights by

the State under the Escheat proceedings and thus the property should be held over to the Trust subject to the final view on the probate proceedings.

In the present appeal, there has been a limited divergence of view between the two learned Judges of this Court.

In the course of explaining the ambit of the controversy, Dr. A.M. Singhvi, learned senior counsel for the Trust has placed before us a booklet showing the six immovable properties forming part of the properties of Raja Sardar Singh and the manner in which they have been maintained by the State of Rajasthan. They have been maintained would be a wrong phraseology. The properties have been permitted to go to seed, the manner in which they are shown and it is only now the State of Rajasthan seems to have woken up with responsibility of maintaining its heritage, by seeking to restore the properties.

We would also like to flag another issue raised by the learned counsels for the Trust and the cognates/agnates, i.e., that there was a functioning hotel, there were valuable movables and the State is liable to account for them in case either the Trust or the cognates/agnates succeed. We have little doubt about this but would say that the State would still be liable to account even if these two parties would not succeed as those movables would also be a

part of the heritage.

In view of what we have said, the State of Rajasthan to file a list of all the movable assets which were there when the take over took place and where and in what manner they have been stored. Insofar as the renovation of the property is concerned, learned counsel for the State volunteers that the renovation would be carried out under the guidance of the Archaeological Survey of India and only experts would be permitted to device methods for renovation and conservation. We thus call upon the State to submit complete proposal in this behalf and at request of the Trust we also permit them to submit the proposal and both proposals to be exchanged.

If the State was to spend its own funds for the restoration, we make it now itself clear that the same would not create any special equities in favour of the State and all that would be permissible would be to seek how the State could be compensated for the work done in case the Trust/cognates/agnates succeed and subject to accountability of the movable assets.

At the request of learned counsel for the parties, we grant three months' time as prayed for to submit the report.

In the meantime, we must say that the pendency of FAO (OS) No. 348/2012 before the Delhi High Court is a matter of concern and we would

request the Hon'ble the Chief Justice of the Delhi High Court to assign the matter to the appropriate Bench so that we may possibly see the fate of these proceedings by the next date.

Learned counsel for parties assure before us that they will assist the Division Bench in deciding the appeal and will not take any adjournments.

There is little doubt over the issue that if the probate of Will is granted or the cognates/agnates are able to establish their rights, the escheat proceedings would really be void ab initio.

We call upon the State to furnish an affidavit as to whether there is any security deployed at the site and if not deployed for what period, if any, they were ever deployed. The State undoubtedly has great responsibility to protect the heritage more so when it has exercised the right to escheat.

List along with applications for impleadment and orders/directions in the second week of January, 2023.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)