

SC orders Watan land regranted by State cannot divest LR of deceased Owner from their right, title and interest which was acquired way back in 1942-43

SC says neither the original holders (three PATIL) and nor the subsequent purchaser (appellant) could take any benefit of the orders of re-grant dated 31.03.1973 and 01.04.1973 made by the State so as to divest the legal representatives of Shah Veljee Kanjee (plaintiffs) from their rights, title and interest in the suit land which they had legally acquired through Court Auction and direct purchase in 1942/43.

In our considered opinion, whatever so-called rights, title and interest which the original holders derived from the orders of re-grant in 1973 in the suit property in their favour, the same stood extinguished by efflux of time. The reason was that in order to keep such new rights intact and enforceable, the original holders (three PATIL) were under a legal obligation to have filed a suit for claiming a declaration and possession of the suit land and this ought to have been done by them within 12 years from the date of re-grant, i.e., 1973.

They, however, failed to do so within 12 years and when they actually tried to exercise their rights by filing the suit in 2004 (after 31 years from 1973), by then it was too late to exercise such rights in law. By that time, their rights in the suit land stood extinguished. Section 27 of the Limitation Act deals with extinguishment of right to property. It says that at the determination of the period prescribed in the Act for any person to institute a suit for possession of any property, his right to such property shall be extinguished. Articles 64 and 65 of the Schedule provide 12 years period for filing a suit to claim possession of any immovable property. The period of 12 years prescribed in these two articles is required to be counted from "the date of dispossession" (Article 64) and "when the possession of the defendant becomes adverse to the plaintiff" (Article 65).

As held supra, the original holders (three PATIL) failed to file the civil suit against the plaintiff claiming possession of the suit land on the strength of their new title namely, re-grant in relation to the suit land, within 12 years from the date of re-grant and, therefore, by virtue of Section 27 of the Limitation Act, their all rights, title and interest in the suit land got extinguished. In view of these reasons, we are of the considered view that neither the original holders (three PATIL) and nor the appellants could take any benefit of the orders of re-grant dated 31.03.1973 and 01.04.1973 made by the State so as to divest the 26 legal representatives of Shah Veljee Kanjee (plaintiffs) from their rights, title and interest in the suit land which they had legally acquired through Court Auction and direct purchase in 1942/43.

By the time the original holders (three PATIL) approached Civil Court, their all rights in the suit land itself got extinguished on account of efflux of time (31 years) as has been held supra

It is not in dispute that Shah Veljee kanjee, in the first instance, acquired legal and valid title in the suit land through Court Auction proceedings in the year 1942 and second, by direct purchase of the part of the suit land on 14.05.1943 from the original holders (three PATIL). In our view, the plaintiff in alternative can be held to have acquired title against the original holders(three PATIL) by operation of law. The reason is not far to seek. Admittedly, the plaintiff continued to remain in lawful possession of the suit land since 1942/1943, first through Shah Veljee Kanjee and after his death through his legal representatives. It is not in dispute that the original holders (three PATIL) were aware of the ownership rights of Shah Veljee Kanjee over the suit land since 1942/1943 as Shah Veljee Kanjee got the suit land by State Auction proceedings and also by direct sale/purchase. In this way, it was proved that the

possession of Shah Veljee Kanjee over the suit land was throughout long, continuous, uninterrupted, open and peaceful with assertion of ownership from 1942 till 2004 to the knowledge of the whole world. The aforesaid undisputed facts confirm the possessory rights, title and interest of the plaintiff in the suit land against everyone including the original holders (three PATIL) by operation of law.☐

☐In our view, therefore, the High Court was right in its reasoning and the conclusion in holding that the original holders (three PATIL) having lost all their rights, title and interest in the suit land on the expiry of 12 years from the date of re-grant in their favour (assuming the re-grant to be valid) in 1985 and secondly, they again lost their ownership rights due to dismissal of their two suits (O.S. Nos. 364 and 365 of 2004) on 23.11.2004, neither the original holders (three PATIL) and nor the appellants, who claimed through original holders, had any right to claim any interest in the suit land. Thus, the appeals