

[2022] 2 S.C.R. 394

BHADAR RAM (D) THR. LRS.

v.

JASSA RAM & ORS.

(Civil Appeal No. 5933 of 2021)

JANUARY 05,2022

[M. R. SHAH AMASUNG A.S BOPANNA, JJ.]

Rajasthan Tenancy Act, 1955 - - s.42 – lam leiba yolba – aien na yaba natraga yadaba – Respondennt gi mapa ‘C’ haibasida lam asi Scheduled Caste ki lam leitaba mi ama oeina lam asi pibani – C na ‘P’ haiba amadagi sel pui amasung maduda lalna sale deed ama soi twhalli Punjab ta leiba appellant gi michang da -- “P” amadi appellant gi mayokta ‘C’ na lam adu amuk halna pithoraknaba suit ama thai – Trial court ki yathang maytung inna lam asi Scheduled caste nattaba ‘P’na oeiri amasung sale deed asisu Rajasthan Colonisation Act ki s.13 amadi Rajasthan Tenancy Act ki s.42 gi niyam sing thugai aduna ‘P’ dagi lam asi louthokkadabani haikhi.—Trail court ki yathang asi pendraduna appellant asina appeal ama Revenue Appellant Tribunal da tharakhi madusu tribunal na kakthatkhi – makha tana appellant asina appeal ama Board of Revenue da tharakhi amadi appeal adudi yakhi paisa khara amuk pihallaga compounding fee oeina Rajasthan Colonisation Act ki s.13 ki makhada – Respondent na writ petition ama tharakhi adubu High court ki Judge Amagi Bench na kakthatkhi – Appeal da Judge amagi Judgement adu Devision Bench na chatnahandabaga loinana haikhi madudi appellant asi Punjab ta khunda leitaduna leiba amadi Scheduled caste ama oeina Scheduled caste ama oeibagi Rajasthan da kannaba ado phangloi – Appellant asigi mapu amadi mapana Rajasthan da lam ama leire haina mahakpu Rajasthan gi khunda

leitaduna leiba mioei amani haiba yaroi—Appellant asi Punjab State ta leiba Scheduled Caste ama oeiba amadi Punjab ta khunda leitaduna matam kuina leiraklaba meoei ama oeibana Rajasthan gi Scheduled Caste singda piba lam leiba yonbagi kannaba ado loubu yaroi maramdi lam adudi ahanbada asengba lam leijadaba Scheduled caste amada pikhibani aduna appellant na lam ado leiba ado Rajasthan Tenancy Act ki s.42 thugai – Attopa maramdasu case asigi asengba achumba amadi thokliba sing asi yengbada lam do appellant na leibado Rajasthan Colonisation Act ki s.13 su thugai.

Appeal asi Kakthatladuna, Court asina

HAIKHI: 1. Appellant asigi mapu amadi mapana Rajasthan da lam ama leire haina mahakpu Rajasthan gi khunda leitaduna leiba mioei amani haiba yaroi. Rajasthan Tenancy Act ki s.42 gi matung inna Scheduled Caste amana lam yolba, khudol piba natrga pithokpada athingba thammi Scheduled Caste nattaba amada. Asigumba niyam asigi pandam amadi maram asi yenglaga akhoina haiba yai madudi hairiba niyam asi State adugi Scheduled caste singbu kannabani.....case asidadi State asi Rajasthan oeiri. [Paras 6.1 and 7][404-E,G-H; 405-A]

2.1 Action Committee on Issue of Caste Certificate to Schedule Castes and Scheduled Tribes in the State of Maharashtra hairiba case asida Supreme Court na haikhi madudi kanagumba amagi hourakpham oeiriba state haibadi mana khunda leitaduna leiriba natraga matam sangna adumak leiraklaba State ta Scheduled Caste/ Scheduled Tribe oeiba ado attopa State ta mahei masing tambagi natraga thabak twbana chingbagi chatlaga State adugi Scheduled Caste/ Scheduled tribe ni haiba yaroi. **Action Committee on Issue of Caste Certificate to Schedule Castes and Scheduled Tribes in the State of Maharashtra** case asigi yathang asi case asidasu sijnaba yai matikleina. Appellant gi maikaidagi thamkhibada hairiba yathang adudi larik laisu tamba, thabak twba ga mari leinabani adubu hujiki case asidi potchei leiba yolbagini haiba wapham ado lalli. Hairiba yathang ado mahei masing tamba , thabak twba gi khaktada

sijinnagadabani haibagi maram leite amadi Rajasthan gi Scheduled caste ki mioei amaga lam leiba yolbadadi sijjanaroidabani haiba leite, lam asi asengba lam mapuda Scheduled caste ki lam leijadaba mini haina pirakhiba lam ni.[Paras 7.1 amasung 8][406-C-F; 408-C-G].

2.2 Appellant asi Punjab State ta leiba Scheduled Caste ama oeiba amadi Punjab ta khunda leitaduna matam kuina leiraklaba meoei ama oeibana Rajasthan gi Scheduled Caste singda piba lam leiba yonbagi kannaba ado loubu yaro maramdi lam adudi ahanbada asengba lam leijadaba Scheduled caste amada pikhibani aduna appellant na lam ado leiba ado Rajasthan Tenancy Act, 1955 ki s.42 thugai. [Para 10] 409-E-G]

2.3 Attopa maramdasu case asigi asengba achumba amadi thokliba sing asi yengbada lam ado appellant na leiba ado Rajasthan Colonisation Act, 1954 ki s.13 su thugai. Board of Revenue na paisa khara amuk pihallaga compounding fee oeina Rajasthan Colonisation Act ki Section 13A(2) makha da lam adu adumak oeiba yahalba matam dadasu lam adu amuk pithokhinaba yathang ama piduna leirabani amadi “P” na mahakki makhuuta leiba lam ado respondent da handuna pikhrabani, 30.12.1980 dadi lam ado respomdent gi makhutta leire. Rajasthan Colonisation Act 1954, ki Section 13A(2) gi matung innadi lam asi pithokhro haiduna yathang pikhraba adubu lam adudii lam pithokhro haina hairiba miduna asengbagi lam ado pithoktana leiba matam data sijinnagadabani. Wapham asi yenglaga, Rajasthan Colonisation Act 1954 ki Section 13A(2) makha da Board of Revenue na paisa khara amuk pihallaga compounding fee oeina “P”da lam ado adumak oeinaba yathang ado pifam thokte. [Para 11]409-G-H; 410-A-D]

Action Committee on Issue of Caste Certificate to Schedule Castes and Scheduled Tribes in the State of Maharashtra amadi attoppa v. Union of India amdi attopa, (1994) 5 SCC 244 :[1944] 1 Suppl. SCR 714 – sijinaba yai

Marri Chandra Chekar Rao v. Dean, Geth GS. Medical College and Others, (1990) 3 SCC 130: [1990] 2 SCR 843 – matung illi

Ranjana Kumari v. State of Uttarakhand & Ors. [2019] 15 SCC 664 –
mateng lwba

Bir Singh v. Delhi Jal Board, (2018) 10 SCC 312 : [2018] 10 SCR 513 –
referred twba

3.Appellant na lam leiba ado Rajasthan Colonisation Act,1954 ki s.13 amadi Rajasthan Tenancy Act,1955 ki s.42 thugai amadi Rajasthan High Court ki Devision Bench na lam leiba yolba ado Chatnahankhidaba ado chumme. [Para 12][410-E]

Case Law Reference

[1944] 1 Suppl. SCR 714	Sijinnaba yai hainba	Para 2.3
[2019] 15 SCC 664	mateng lwee	Para 4.1
[1990] 2 SCR 843	matung inba	Para 4.1
[2018] 10 SCR 513	referred twba	Para 4.2

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5933 of 2021

Jodhpur da leiba Rajasthan High Court ki D.B.na Civil Special Appeal No.1398 of 1999 gi tarikh 07.04.2011 da piba yathang amadi judgemnet dagi

Ms. Suruchi Mittal, Abhishek Gautam, Advs. na Appellants gi.

Ms. Christi Jain, Ms. Pratibha Jain, Advs. na Respondents gi.

Court asigi Judgement asi loathokhibana

M. R. SHAH, J.

1.Jodhpur da leiba Rajasthan High Court ki Division Bench na Civil Special Appeal No.1398/1999 na tarilh 07.04.2011 da pikhiba judgement amadi yathang aduda pendaba amadi nungaitaba

fouduna haibadi High Court ki Division Bench aduna hujikii case asida respondent oeiriba original plaintiff ki appeal yakhi. Madudagi Case asida appellant-original defendant haibadi lam adu leiriba asina hujikki appeal asi tharakhi.

2. Appeal asi lakpa foubagi thokhiba thoudok wathok sing ado makhagi asumna piri.

2.1 Yetnariba lam asi Dharamsinghwala, Tehsil Sadulshahar, District Sri Ganganagar, Rajasthan da lei. Lam asi Scheduled Caste ki lam leitaba mi ama oeina hujikki case asigi respondent oeiriba asigi mapa haidi original plaintiff Chunilal da pikhi. Respondent gi matung inna 1972 da. Chunnilal na lupa 5000/- Puran Singh dagi pukhi amaqsung che chang ennabagi namada hairiba awangba Jat caste oeiriba Puran Singh na lalna Chunilal bu sale deed ama soi twhankhi case asida appellant oeiriba original defendant Punjab tagi Bhadur Ram gi michang da.

2.2 Hairiba Chunilal asina lam asidagi thokhinaba suit ama Puran Singh amadi Bhadur Ram gi mayokta tharakhi lam asi magonda pirakpani amasung tarikh 21.06.1972 ta ennakhiba sale deed ado chatnaba yaroi amadi mado Rajasthan Tenancy Act, 1955 gi section 42 amasung Rajasthan Colonization Act, 1954 gi section 13 bu thugai. Hairiba suit asida learned trial court ki tarikh 13.10.1980 pikhiba judgement amadi yathang aduna lam asi schedule caste oeidaba Puran Singh gi maphamda leire amasung sale deed asi Rajasthan Tenancy Act, 1955 gi section 42 amasung Rajasthan Colonization Act, 1954 gi section 13 bu thugai maram asina Puran Singh bu lam asidagi tanthokpa tai. Respondent-original plaintiff na haibada trial court ki yathang matung inna lam ado mangonda pirakkii. Lam ado Bhadur Singh ki makhutta leiramde Puran sing gida leirammi. Pendraduna amadi nungaitaduna original defendant na Learned Trial Court na takhiba judgement amadi yathang adugi mayokta Revenue Appellate Tribunal da appeal tharakhi. Revenue Appellate Tribunal na appeal ado kakthatkhi. Appellant-original defendant na Board of Revenue gi mamangda da appeal amuk tharakhi, appeal ado yaraduna tarikh 25.04.1989 da pikhiba yathang na compounding gi kannaba pikhi appellant –original defendant da compounding fee pihallaga Rajasthan Colonization Act, 1954 ki makhada.

2.3 Board of Revenue na pikhiba yathang aduda pendaduna amadi nungaitaduna respondent –original plaintiff na writ petition ama High Court ki single judge bench ki mamangda tharakhi. High Court ki learned Single Judge Bench aduna tarikh 15.09.1999 da writ petition adugi judgement amadi yathang piduna kaktthatkhi. Respondent-original plaintiff na Division Bench ki mamangda appeal tharakhi. Singnarakliba judgement amadi yathang asi piraduna High Court ki Division Bench na appeal ado yahalkhi. Learned Single judge na pikhiba judgement amadi yathang ado chatnahankhide amadi D.B na phongdokhi adudi hujikki case asida appellant oeiriba orginal defendant asi Punjab ta leiba amadi mafam adugi scheduled caste oeiba maramna Rajasthan da Scheduled caste oeibagi kannaba ado phangfam thokte. Yathang ado pibada High Court ki Division Bench na Court asina ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another Vs. Union of India and Another, (1994) 5 SCC 244*** hairba case asida pikhiba yathang gi mateng loukhi.

2.4 High Court ki Division Bench na pikhiba singnarakliba judgement amadi yathang asida nungaitaduna amadi pendraduna appellant-original defendant –lam adubu leiriba asina hujikki appeal asi tharakhi.

3.0 Appellant gi lepliba learned counsel na yamna kanna hairibadi case asigi wayel houbadagi loibafoubada original plaintiff - respondent na haikhibadi lam leiba yolba asi chatnaba yaroi maramdi Rajasthan Colonization Act, 1954 ki section 13 ki matung inna scheduled caste ki lam oeibana hanna ayaba louba changii ayaba lougadaba asi loude amasung appellant –original deffendent asidi Puran Singh na Rajasthan Tenancy Act,1955 Ki section 42 gi makhada thamba athingba ado lalthoknaba khaki sijinnabani. Makha tana mahakna court asida haikhibadi, Maram asina respondent – original plaintiff na masana yajare madudi appellant – original defendant asi Scheduled Caste amani haina. Makha tana haikhibada appellant –original deffendent asi Rajasthan state ki manung da scheduled caste oeiribra oeidabra khangdoknaba tangdangba chatnalon ama leite, Rajasthan gi Scheduled caste natte haina matik

chaba praman su puthokpa ngamde tougumsu appellant ki mapa mapu di Rajasthan da khunda letaduna leirakpa mioei singni haikhi.

3.1 Makha tana court asida haikhibada 1983 gi amendment gi matung da section 13 asi Rajasthan Colonization Act, 1954 da hapsillakhi, masina the Rajasthan Colonization Act, 1954 gi section 13 gi makhada lougadaba ayaba adu loudana lam leiba yolba touragasu compounding fee thiraga leiba yolba twkhiba ado adumak chatnaba yahalli amendemt asigi matung da, hujiki case asidasu Board of Revenue na compounding fee louraga leiba yolba twkhiba ado chatnahalduna achumba twri haikhi. Makha tana thamkhibada mathakta haikhibagumna respondent – original plaintiff na pukhatlakliba maru oeiba wapham di lam asi leiba yolba asi Rajasthan Colonization Act, 1954 ki section 13 gi niyam sing innde haibasini. Makha tana haibada Board of Revenue gi yathang matung da khak respondent – original plaintiff ki wapham gi maiyol asi Rajasthan Tenancy Act, 1955. Gi section 42 da oeirakhibani.

3.2 Makha tana thamkhibada appellant – original defendant asi hujik hujik Punjab ta lei natraga Punjab ta yum ama lei haiduna mahak asi Punjab ta khunda leitaduna leiba mishak amani haiba yaroi Representation of People Act, 1950 ki Section 20(1)matung inna. Makha tana court asida thamkhibada haikhriba maram sing asi yenglaga makha tana thijina humjilba changgi haibasini mahakki leipham gi tangdangba ama asini haina .haidrigei.

3.3 Appellant – original defendant gi lepliban leaned counsel na Action Committee on the issue of caste certificate to Scheduled Caste and Scheduled Tribes ki paodam gi mateng lwri ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another (supra)*** hairiba case asi uttuna.

3.4 ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another (supra)*** case asigi yathang gi mateng loubagi matang da makha tana phongdokhibada hairiba judgment asidi supnatang gi yumhong khiba ga mari leinani haibasini amasung State amada yum hongluraga amuk magi hourakpham oeiriba state

tuda hallakpada mabu state adugi scheduled caste oeini oeiroi gi matang dadi karigumba amata neinade haikhi hujikki ta thengnariba asigumna. Makha tana mahakna court asida thamkhibada hairiba yathang aduna schedule caste ki matang da hairiba ado lairik laisu tamba/thabak changba gi khaktani, yathang aduna lam leiba yolbagi matang aside konsilde haikhi.

3.5 Makha tana haikhibada lam leiba asi esagi sel na twjabani aduna attopa meoei amagi mityengda aieen na yaba yadaba haina khannaningai oeide. Open market tadi masana yana twjaba thabak amada state reservation natraga attopa athingba singna puljinpham thokte supnatang niyam sing illibra haina yengpham thokee. Maram asina makha tana haikhibada appellant – original defendant gi masna masagi wana tanjaba sel na leijaba lam asigi kannaba asi phanghandafam thokte.

3.6 Respondent – original plaintiff ta 1972 da yolkhiba asi 1977 da chahi manga leiraga yai yade haina wahang twba yahalpham thokte haina makha tana haikhi. Hairiba thouwong asina respondent – original plaintiff ki thamoi sengdaba ado uthokchare amadi appellant – original defendant ki asengba lam asi pidanaba aiein bu lalna sijinnare haikhi. Lam adugi pikhiba sel ado respondent – original plaintiff ta matam asuk kuibase mahakgonda leiri amasung appellant – original defendant na Rajasthan Colonization Act, 1954, gi Section 13A gi makhada compounding fee su pikhre maram asina lam asi magi oeipham thokee.

Mathakta palkhriba wapham sing asi court asida thamladuna appealasi yahalbinaba amadi Devision Bench na pikhiba singnarakliba judgement amadi yathang asi chantnahanbidanaba haijari.

4. respondent – original plaintiff ki meikadagi leplibaba Ms. Christi Jain na appeal asi yam kanna yaningdaba utli.

4.1 Court asida haikhibada kanagumba Punjab ta leiba amadi mapham duda Scheduled caste oeiba amana Rajasthan gi scheduled Caste ki Rajasthan Colonization Act, 1954 section 42 na piba

kannaba asi loupnam thokpra haiba wapham asi Hon'ble Court asigi tarikh 01.11.2018 da pikhiba **Civil Appeal No.8425/2013** gi **Ranjana Kumari Vs. State of Uttarakhand & Ors.** gi yathangna konjille. Constitution Bench na case ani **Marri Chandra Shekar Rao Vs. Dean, Geth G.S. Medical College and Others, (1990) 3 SCC 130** amasung **Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another (supra)** da pikhiba judgemnet asi neinabada phanggi madudi yum hongliba state aduda chap manaba caste ado scheduled caste ni haina masak khanggi haiduna yum hongliba mioei ado yumhong liba state adugi scheduled caste ni haiba yaroi haibasini. Court asina piba aien sing amadi palkhriba yathang sing asi yenglaga High Court ki Devision Bench na appeal ado yahalkhiba adu chummi amasung appellant – original defendant asi Punjab ta leiba ama oeina amadi Punjab ki Scheduled caste ama oeina Rajasthan gi Scheduled caste ama oeibagi kannaba ado phangba yaroi haina chumna haikhi. Respondent - plaintiff amasung appellant - original defendant anigi marakta twkhiba leiba yolba aduna Rajasthan Tenancy Act, 1955 gi Section 42 thugaire haibadusu chummi haikhi.

4.2 Makha tana court asida phongdokhibada hairiba matang asi Court asigi attopa case amagi yathang amanasu kolsilli **Bir Singh Vs. Delhi Jal Board, (2018) 10 SCC 312 (paragraph 34)** na. Bharat Sangbhidhan gi Article 136 gi thouda sing pangthokpada Court asigi khut changba mathou tade haikhi.

4.3 Court asida haikhibada hujikki case asi respondent - original plaintiff na ejectment gi damakta tharakhibani amadi tarikh 21.06.1972 da eenakhiba sale deed ado chatnaba yade haina laothokpinaba haidi Rajasthan Colonization Act, 1954 ki section 42 amadi Rajasthan Tenancy Act, 1955 ki Section 13 thugai haibasini. Scheduled caste oeidaba Puran Singh na Bhadur Ram haiba amagi mingda lam asi leibani respondent – original plaintiff na ana layengnaba paisa khara magondagi purubada lalna sale deed ama soi twhanduna lam asi leikhibani haina court asida haikhi. Maram asina, Rajasthan Colonization Act, 1954 ki section 42 amadi Rajasthan Tenancy Act, 1955 ki Section 13 asi thugai haina court asida phongdokhi. Makha tana haikhibada appellant - original defendant asi Punjab ta leibani Rajasthan da natte. Bainama da

mahakki leipham asi Village Burajwala, Tehsil, Fajilka, District Firozpur, Punjab haina eeri amasung Punjab ta leiba mini haikhi. Mutation Record tasu magi leipham asi Punjab ni haina utli haina hairi. Cross examination twba matamdasu mahakna mahak asi Punjab ta leiba amani haina haikhi. Mahak asi asengbagi Rajasthan gi leiba mioei ni Punjab ta yumhong lubani haina utte.

4.4 Appellant – original defendant na mahak asi Rajasthan da leiba mioei amani hairiba asi mahakki mapu gi lam Rajasthan da lei haibagi khaktani. Rajasthan da lam leiba asina masa matomta Rajasthan gi mini haina waroi sin purakpa yaroi. appellant – original defendant asi Rajasthan da pokee haibagi sakhi sabol leite. Maram asina lam leiba yolba aduna Rajasthan Tenancy Act, 1955 gi Section 42 thugaire haikhi

4.5. Rajasthan da Schedule caste nattaba Puran Singh na masagi mashak lotsillaga maming tagi oeina Bhadur Ram da ming palduna lalna lam asi leibani haina haikhi. Lam asi Puran Singh gi oeiramkhi. Learned trial court nasu Puran Singh gi lam ni haikhi. Lam asida Puran Singh na leiramba thengnakhi authorities singna leaned trail court ki yathang gi matung inna lam asi respondent – original plaintiff ta sinnaba chatpa matam da haina Learned trial court na hairi. Maram asina, sale deed ado Rajasthan Colonization Act, 1954 ki Section 13 thugaire haina haikhi.

4.6. Section 13 A gi makhada Board of Revenue na compounding gi kannaba asi appellant – original defendant da pifam thokte hairi. Compounding gi kannaba asi transferee haidi lam do leirba mi adugi khutta lam ado leiba matam data pigadabani phongdokli. Case asida transferee – appellant gi khutta lam adu leitre aduna appellant – original defendant da compounding gi kannaba ado pifam thokte haibasini. Compounding gi kannaba asi State Lei ngak na pigadabani, Board of Revenue na piagadaba natte. Asita nattana Section 13A gi niyam sing asi 13.06.1987 foubada sijinnagadabani adubu Board na 25.04.1989 da sijinnare masi piriha matam dagi helle haikhi.

Mathakta palkhriba sing hairaduna amadi mathakki yathang sing asigi mateng louraduna, Appeal asi kakthatnaba haijarakhi.

5. Magi magi meikaida lepliba learned Counsel singgi wapham sing tare. Matang asida thoklalliba atenba wahang adi appellant – original defendant na leiriba lam asi aien na yaribra Punjab ki Scheduled caste ama oeina Rajasthan Colonization Act, 1954 ki section 42 amadi Rajasthan Colonization Act, 1954 ki Section 13 asi thugaibra haibasini?

6. Hairiba lam asi Rajasthan State ki manung da lei haibasidi yetnangingei oeidre. Hairiba lam asi respondent – original plaintiff ki mapa Chunilal da Scheduled caste ki lam leitaba mioei ama oeina pibani. Respondent – original plaintiff ki matung inna, hairba Chiunilal asina lupa 5000 asi Puran Singh (Jat-High Caste) tagi pukhi amasung che chang sembagi namada Puran Singh asina Chunilal bu sale deed ama lalna soi twhankhi case asida appellant oeiriba Punjab ta leiba mioei ama -- Bhadar Ram gi michangda. Respondent – original plaintiff ki matung inna lam asi asengbadadi Puran Singh na leibani. Adubu hairiba Puran Singh asina sale deed asi Scheduled caste oeiriba (Punjab ki scheduled caste) appellant—Bhadar Ram gi mingda twnahannbani. respondent – original plaintiff ki matung inna lam asi matam pumbada Scheduled caste nattaba Puran Singh gi oei amadi learned trai court na judgement amasung yathang pikhraba matungda lam ado respondent – original plaintiff ki makhutta sinnaba matam dudasu lam asi Puran Singh na leiramkhi, appellant- original defendant na lam asida leiramde. Maram asina Bhadar Ram gi mingda lam asi leiba yolba asi Rajasthan Colonization Act, 1954 ki Section 13 asi thugai. respondent – original plaintiff na haibada lam asi leiba yolba asi Rajasthan Tenancy Act, 1955 ki section 42 thugai maramdi appellant- Bhadar Ram asi Punjab ki Scheduled caste amani amasung mahak asi Punjab ta khunda leitaduna matam sangna leiraklaba mi oei amani. Adubu appellant - original defendant gi matung innadi mahak asi scheduled caste amani, sale deed mahakka twnaba ado Rajasthan Tenancy Act, 1955 ki Section 42 thugai haina loubu yaroi haibasini. Appellant - original defendant gi matung inna mahak asi Rajasthan da yum hongee amasung mapu amasu mapana lou unnaba lam Rajasthan da leiraga lei, maram asina mahak asi Rajasthan da khunda leitaduna leiba mi amani haiba yare asini.

6.1 Case asida appellant – original defendant—yetnariba lam Rajasthan da leiba asibu leiriba meoei asigi bainama da magi

leipham asi Village Burajwala, Tehsil, Fajilka, District Firozpur, Punjab haina utli . Mutation Record tasu magi leipham asi Punjab ni haina utli . Cross examination twba matamdasu mahakna mahak asi Punjab ta leiba amani haina yajari. Adubu appellant – original plaintiff ki matung innadi mapu amasu mapana lam Rajasthan da leiraga lerami, maram asina mahak asi Rajasthan da khunda leitaduna leiba mi amani haiba yare haibasini. Hairiba asi yafam thokte. mapu amasu mapana lou unnaba lam Rajasthan da leiraga lei haiduna mahak asi Rajasthan da khunda leitaduna leiba mi amani haiba asi yaroi.

“Khunda leitaduna leiba mieoi” haiba si **Representation of the People Act, 1950** na karambano haina takli. Representation of the People Act, 1950 ki section 20 (1) matung inna “Khunda leitaduna leiba mieoi” haiba si meoei amana Kendra amada mahakki lam leire haina natraga mahakna leiba yum ado Kendra aduda leiba adu khaktana mahakpu kendra adugi Khunda leitaduna leiba mieoi amani haina hekta loubu yaroi. Mathakta piriba leiramlaba niyam asi yenglaga appellant – original defendant asibu Rajasthan gi Khunda leitaduna leiba mieoi amani haiba yaroi.

7. Appellant – original defendant na lam leiba yolba asina Rajasthan Tenancy Act, 1955 ki section 42 thugaibra haibagi matang dadi, Rajasthan Tenancy Act, 1955 ki section 42 gi matung inna Schedule caste ki meoei amna schedule caste nattaba amada lam yolba, khudol piba natraga pithokpa matamda athingba lei. Asigumba niyam sing asigi pandam amasung thoudang ado yenglaga asigumba niyam sing asi schedule caste ki meoei singbu mahakna leiriba state aduda makhoibu kanjanabani aduga hujikki case asidana State asi Rajasthan oeiri. Punjab ki Scheduled caste ama oeina appellant - original defendant asina lam leiba ado Rajasthan Tenancy Act, 1955 ki Section 42 na thamba athingba adudagi kallamba yabani adubu asigumba case asi case asina ahanba natte. **Marri Chandra Shekar Rao (supra)** case asigi 10 suba paragraph da asumna hairi:

“10. Mioei amana mahakna henna afaba mapham natraga henna komthokpa maning tamba yaba khunai amada yumhongba matamda mahakna mahaki hanna oeiramba caste adu adumak oei haibasi akhoina wakhal da kxanthagadabani. Henna chaokhatpa khunai amada matam sangna leirakpa taragadi hanthaba khunai amada leirambagi

twba ngamdaba amadi apanba sing adu leirakte amasung nupa amadi nupi adugi heija singjaba ado maningtamna uthokpa ngamakii. Maram aduna khunai semdok semjin twba haidi matam kayam kuina sotharaba kanglup singbu chei ngak piduna leigadage haibado amadi matam kayam kuina attopa singa mananaba hotnabada changadage haibasi khanglaga khunai adubu karamna semdok semjn twgani haibasi yam luba wapham amani. Leibak asigi apunbagi saktam sagatpada masibu khal amada thamba changgi madudi mioei khara natraga kanglup amana attopa kanglup natraga meoei kharada apanba natraga ayetpa thokhaldanabagi damakta. Leibak asigi akaknaba mapham kharada leiriba Scheduled Castes amadi Scheduled Tribes singbu atoppa singaa mananaba cheigak pifam thokee atoppa singaa mannaba ngamdriba matam fou.. Aduga chap manna attopa mapham singda chatpadasu makhoina makhoidagi sotharaba natraga makhoigum thabak thwda ngamjadraba kanglup singbu ngamhalnabagi damakta makhoigi mapham pigadabani . Attopa waheida hairaga,Khudam oeina Andhara Pradesh ki Scheduled Castes amadi Scheduled Tribes singsu mapham adugi attopa kanglup singga mananaba cheigak sing changgi. Chap manana, Maharastra gi Scheduled Castes amadi Scheduled Tribes singsu Maharastra gi attopa kanglup singga manaba khal amada thamnaba cheigak sing changii.Mannadaba khenaba leibagi awaba asidagi kannaba twdaba yadraba lambi ama masina oei. Mannaba oeihannabagi damakta masigi thouwong asi wakhal da thamba taragadi. Case asoida ceiirba chayetnaba asi loisilbada aruba oeide.”

Mathakki wapham sing asi thamladuna yathang asina hairi Stata kharada Scheduled Castes amadi Scheduled Tribes sing asi khunai aduda sothaba oei amadi chaokhatpagi facilities sing phangde, maram asina makhoina sothariba mapham sing aduda mananaba amadi chaokhattana leiriba mapham aduda makhoibu reservation natraga attopa cheigak sing makhoida piduna makhoidagi henna chaokhatpa kanglup sing chap mannana hidannaba ngamnaba. Akaknaba caste ama sothariba ado akaknaba state amada reservation natraga chei ngak sing makhoigi pifam thokee. Khunai amagi phibam asi state amaga state amaga manade

amadi caste ama natraga tribe amagi mapham amagi phibam bu leibak asigi apunba oeina loubada achumba oeiroi.

7.1 **Marri Chandra Shekar Rao (supra)** da Court asina pikhiba yathang ado neinaraba matung da **Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another (supra)** case asida wahang ama thorakke, Caste natraga tribe amada yaoba mioei ama sangbhidhan gi matung inna State A gi Scheduled Caste natraga Scheduled Tribe ni haiba taragdi mana State B da yum hongba matamda chap mannaba maming gi caste natraga tribe adu State B adudasu Sangbhidhan gi matung inna Scheduled Caste natraga Scheduled Tribe oeiba tarabadi, State B da yum honglakliba midu State B gi Scheduled Caste natraga Scheduled Tribe singda piba kannaba sing ado phangfam thokpra haibasini.? khunda leitaduna leirba State adugi Scheduled Caste natraga Scheduled Tribe oeiba mioei amana mahakna attopa State ta thabakki, lairik laisu tambagi madi attopa maram singggi yum hongbada mahak adu adumak honglakliba state adugi Scheduled Caste natraga Scheduled Tribe oeiba yaroi haikhi. Paragraph Nos. 3 amadi 16 ta makhagi asumna hairi :

“3. Article 341 gi clasue (1) amadi 342 bu paba matamda akhoina khangii adudi Prisendent gi sakti na caste natraga tribe adu State ama natra Union territory amada Sangbhidhan gi matung inna Scheduled Caste natraga Scheduled Tribe oei haina khaidokpa adu kaktani. Article 341 gi clasue (1) amadi 342 hi makhada meeyam da khanghan cherol ama thokhraba matung dadi caste natraga tribe ama hekta aien gi matung inna Parliament na Scheduled Caste natraga Scheduled Tribe ki listagi louthokpa natraga hapsilba yai khanghan cherol aduda piriba caste natraga tribe singgi marak tagi, masi nattanadi attopa makha khanghan cherol ama thoktuna Clause 1 gi makhada thokhiba khanghan cherol adubu onthok onjil yade. Masida akhoina khangadaba maru oeibadi caste natraga tribe ado piriba State ama natraga Union Territory ama aduga mari leinana khaidokkadabani haibasini. Masina takpadi caste natraga tribe amana Scheduled Caste natraga Scheduled Tribe oeiba haibasi mahakki State natra Union territory aduga mari leinanani haibasini. Masida hairiba asi petition asida thangatlakliba wapham asiga chanaba niyam aduni.”

“16. Makha tana eikhoina khannaba yaba asi akaknaba caste natraga class natraga class amabu State amagi Scheduled Castes/Schedule Tribes natraga backward classes ki list ta yaohalba haibasi caste natraga class natraga class aduna State aduda thengnariba awabagi amadi sotharibagi singgi mawong amadi kayammuk yamna hanthariba haibagi makha ponganni attopa yum hongdouriba state aduga mari leinade. Chanarubadagi tribe natraga caste amabu state anida Scheduled Castes/Schedule Tribes natraga backward classes ni haina khaidokpada chap mannaba maming yaoramba yai adubu karigidamakta karamba phibam oeibagi makhoibu adumna khaidoklibano haibadudi makhoigi oeiriba phibam sing khetnabagi matung inna khetnei. Kaidokpagi machak oeiriba kayamuk sotharibano haibagi chang adu maming chap mannarabasu pura khennaramba yai. Maram asina State A kouba amada caste ama scheduled caste oeire haiduna attopa state amadasu chap mannaba caste maming ama schedule caste oeire haiduna State A gi meoei amana anouba state amada Sangbhidhani matung inna State adugi Scheduled caste singda piba hak, ekaikhumnaba amadi kannaba sing ado loubu yaro. Masigi wapham asi eikhoina wakhall da thamgadabani amadi Sangbhidhan bu sembiramba singi wakhallondon lei haibasi Article 341 amadi 342 da sijinnariba wahei watana takee. Maram asina, Mr Jaipal na hanghlakpa wahang amada Dr. Ambedkar na makha gi asumna paokhum pikhi.

“Mahakna attopa wahang amasu hanglammi wahang adudi masini. Tribal area da leiba Scheduled tribe ki meoei amana tribal area adugi wangmada Bharat ki mapham amada yum hongba taragadi, leiriba mapham aduda palliba lei ngak adudagi mahakna Schedule area natraga tribal area da phangba kannaba sing ado loubu yagadra? Paokhum khumbada yamna luba wahang ni, Adugumba matang asi karigumba saruk kharada thoraklabadi , eikhoina sangbhidhan da clause khara haptuna wahang adugi paokhum piba yai. Adubu hujikki sangbhidhan asigidi Scheduled tribe ki meoei amna tribal area natraga Scheduled area gi wangmada thoraklabadi tribal area natraga Scheduled area da

phanglamba kannaba sing ado phangloi. Eina khanduna yengbada tribal area natraga Scheduled area da piba kannaba asi atop mapham singda lakpadasu piba haibasi pangthokpada oeoithokloidaba kaya lei.....”

Mathakki wapham asigi mateng louraga Constitutional bench na petitioner asi Medical College ta admission pifam thokte haina rai takhi maramdi mahakna Scheduled tribe oeiriba asi mahakna hourakpham oeiriba state adudatani haina.”

8. Court asigi ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another (supra)*** case asida pikhiba yathang ado hujikki case asidasu sijinnaba yai Appellant - original defendant gi maikedi dagi phongdhokhibada yathang adudi case asiga channade, case adudadi Court asina thabakki amadi mahei masing tambaga mari leinabada pikhiba yathang ni adubu hujikki case asidadi yetnariba asi lam yolbagi matang dani aduna channade yathang adugi niyam sing ado sijinnaba yaro haibasini. Court asigi ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another (supra)*** case asida pikhiba maram adudi Bharat Sangbhidhan gi Article 341 gi Clause I amadi 342 gi wahanthok aduni mathakta palkhraba aduni. Eikhoina ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another (supra)*** gi yathang asi thabakki amadi mahei masing tambada khaktada sijinnagadabani haibagi maram leite haina louee amadi yathang asi lam leiba amadi yolbada haibadi Rajasthan gi Scheduled caste amada Scheduled caste ki lam leitaba ama oeina – Chunilal da pirakhiba lam do leiba yolbada sijinnaroidabagi maram leite.

9. Matang asida, Eikhoina khangba changee madudi Court asigi Judge ahumna ***Ranjana Kumari (supra)*** case ki yathang da neinakhiba aduga hujikki case asiga mannei. Court asida Valmiki Caste (Punjab ki Scheduled caste) na appellant oeiduna case ama tharakhi. Mahak Uttaralkhand gi Valmiki caste amada luhong lakkhi amadi yum honglakkhi. Uttakhand State tasu President gi yathang

matung inna Valmiki casi Scheduled caste ni haina masak khanglamkhi. Uttarkhand State nasu Scheduled caste ki certificate ama appellant da piramkhi. Adubu Uttrakhand State na Uttarakhand State ki Scheduled caste singda piba kanaba adudi appellant da pikhide. Madugi matungda appellant na High Court ta chatkhi. High Court na magi wapham ado yakhide. High Court ki yathang ado court asida appeal twraktuna singnarakkhi. Appeal ado kakthatladuna court asina paragraph 4 da makhagi asumna haikhi.

“4. Court asigi constitutional Bench gi Judgemnet ani haibadi **Marri Chandra Shekar Rao Vs. Dean, Seth G.S. Medical College & Ors.** amasung **Action Committee on Issue of Caste Certificate to Scheduled Castes & Scheduled Tribes in the State of Maharashtra & Anr. Vs. Union of India & Anr.** da yumhonglakliba state adudasu mahakki caste ado Scheduled caste ni haina masak khanggi haina yumhonglakliba mioei ado Scheduled caste oeiba yaroi haina haikhi. Hujikki case asida, Uttarkhand State na Caste Certificate piba aduna **Marri Chandra Shekar Rao (supra)** and **Action Committee (supra)** gi Constitution Bench ki Judgement ado mayai chamthahanba yaroi.”

10. Mathakki wapham sing asi yenglaga Appellant – Original defendant asi Punjab State ta leiba Scheduled Caste ama oeiba amadi Punjab ta khunda leitaduna matam kuina leiraklaba meoei ama oeibana Rajasthan gi Scheduled Caste singda piba lam leiba yonbagi kannaba ado loubu yaroi maramdi lam adudi ahanbada asengba lam leijadaba Scheduled caste amada pikhibani, aduna appellant da lam ado leiba yolba ado Rajasthan Tenancy Act, 1955 ki Section 42 thugai haina High Court ki Division Bench na haikhiba ado chummi.

11. Attopa maram singdasu case asigi asengba achumba amadi thokliba sing asi yengbada lam do appellant - original defendant da leiba yolba twbado Rajasthan Colonisation Act, 1954 ki Section 13 thugai. Board of Revenue na paisa khara amuk pihallaga compounding fee oeina Rajasthan Colonisation Act ki Section 13A(2) makhada appellant - original defendant da lam ado adumak

oeiba yahalkhi Adubu Board of Revenue na kannaba adu Section 13 A(2) gi makhada piba matam dadasu lam adu amuk pithokhinaba yathang ama piduna hanna leirabani appellant - original defendant amadi Puran Singh da. Puran Singh na mahakki makhuuta leiba lam ado respondent – original plaintiff ta handuna pikhrabani 30.12.1980 da. Rajasthan Colonisation Act ki Section 13A(2) asidi lam asi pithokhro haiduna yathang pikhraba adubu lam adudii lam pithokhro haina hairiba miduna asengbagi lam ado pithoktana leiba matam data sijinnagani. Wapham asi yenglaga, Rajasthan Colonisation Act 1954 ki Section 13A(2) makha da Board of Revenue na paisa khara amuk pihallaga compounding fee oeina appellant- original defendant amasung /natraga Puran Sing da lam ado adumak oeinaba yathang ado pifam thokte . Maram asina Board of Revenue na pikhiba yathang Learned Single Judge na yakhiba ado Rajasthan Colonization Act, 1954, gi Section 13A (2) ga tai onnei amadi yetnariba lam leiba yolba asi Rajasthan Colonization Act, 1954 ki Section 13 thugai.

12. Mathakta pikhriba maram sing asi yenglaga, Appellant - original defendant na lam leiba ado Rajasthan Colonisation Act,1954 ki Section 13 amadi Rajasthan Tenancy Act,1955 ki Section 42 thugai amadi Rajasthan High Court ki Devision Bench na Leiba yolba ado Chatna hankhidaba ado chumme. Devision Bench ki wapham ado akhoina loinamak yare. Aduna hujiki appeal asi yadre amasung appeal asi kakthatpham thoklae amasung kakthatle. Adubu case asigi thoudok wathok sing yenglaga, kanamtada sel thinaba yathang asina haide.

Appeal asi kakthatle.