HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 13230/2020

Suraj Pal Singh S/o Shri Nahar Singh, Aged About 62 Years, B/c Rajput, R/o Sinchana, Tehsil Marwar Junction, District Pali (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of Revenue, Government Of Rajasthan, Jaipur (Raj.)
2. The District Collector, Pali
3. The Tehsildar (Revenue), Tehsil Marwar Junction, District Pali (Raj.)
4. Jas Das S/o Shri Ganesh Das, B/c Vaishnav, R/o Sinchana, Tehsil Marwar Junction, District Pali (Raj.)
5. Kharta S/o Shri Babu, B/c Mena, R/o Sinchana, Tehsil Marwar Junction, District Pali (Raj.)
6. Bhatiyani Majisa Mandir, Through Its So Called Manager Jagdish S/o Shri Motaram, B/c Meghwal, R/o Sinchana, Tehsil Marwar Junction, District Pali (Raj.)
7. Upendra Singh S/o Shri Shambhoo Singh, B/c Rajput, R/o Sinchana, Tehsil Marwar Junction, District Pali (Raj.)

----Respondents

For Petitioner(s) : Mr. C.P. Soni (through V.C.)

HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE DEVENDRA KACHHAWAHA

JUDGMENT

11/12/2020

The petitioner has filed the instant Writ Petition (Public Interest Litigation) with a grievance that the private respondents have made encroachments on the Public Way, Gochar Land & Sivay Chak Land at Village Sinchana, Tehsil Marwar Junction, District Pali.

The petitioner claimed that he has submitted numerous complaints to the concerned authorities in this regard, but, no action has been taken thereupon.

In view of the averments made in the writ petition, we are of the firm view that the controversy at hand is squarely covered by the following observations made by the Division Bench of this Court in the case of ***Jagdish Prasad Meena & Ors. Vs. State of Rajasthan & Ors.*** passed in ***D.B. Civil Writ Petition (PIL) No.10819/2018 decided on 30.01.2019:-***

> "This Court is inundated with large number of writ petitions, styled as public interest litigation, from almost all the Districts of the State, with allegations of encroachment over the pasture land/ land of 'johad', 'talab'/ river/river bed/public way/ Shamshan/ Kabristan etc. In all such petitions, common allegation is that despite repeated complaints/representations to the concerned revenue officers, no steps are taken by them to remove the encroachment. This results in number of writ petitions being filed by the complainants/representationists before this Court. This Court has been passing orders in such matters requiring the respective District Collectors to examine the factual content of the allegations and take steps to remove the encroachments so as to secure such land.
>
> In order therefore to provide a pan-Rajasthan solution to this ever persisting problem, we deem it appropriate to direct the Chief Secretary of the State to devise a permanent mechanism, which should be operational in every District of the State where the concerned District Collector should be required to periodically notify for the information of the general public to lodge the complaints/representations with regard to such

encroachments with a specially designated Public Land Protection Cell (for short 'PLPC') for rural areas. The PLPC should be headed by District Collector and function under his direction and supervision. The PLPC shall get such complaints/representations enquired into by deputing concerned Sub Divisional Officer/Tehsildar/Naib Tehsildar so as to verify whether or not such encroachments have actually taken place on such land. If the allegations are found to be substantiated, appropriate steps in accordance with law be immediately taken for removal of the encroachments and appropriate penal action be also taken against the trespassers. The complaints/representations received in the PLPC should be decided by passing speaking order, informing the respective complainant/ representationist about the action taken. This would obviate the necessity of such complainants/ representationists approaching this Court directly by way of public interest litigation. If this practice is put in place, this Court would not be inclined to directly entertain such public interest litigation or would do so only in the event of inaction on the part of the concerned PLPC.

The PLPC aforementioned shall also keep in view the guidelines issued by the Supreme Court in ***Jagpal Singh & Others Vs. State of Punjab & Others, (2011) 11 SCC 396*** wherein all the State Governments of the country were directed that they should prepare schemes for eviction of illegal/unauthorised occupants of the Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and the same must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. The said scheme should provide for the speedy eviction of such illegal occupants, after giving them a show cause notice and a brief hearing. It was further held therein that long duration of the illegal encroachment/

> occupation of land or huge expenditure in making construction thereon or political connections of trespassers are no justification for regularising such illegal occupation. Regularisation should be permitted only in exceptional cases where lease has been granted under some government notification e.g. to landless labourers or members of Scheduled Castes/ Scheduled Tribes or where there is already a school, hospital, dispensary, 'shamshan', 'kabristan' or other public utility of the like nature on the land."

Thus, the petitioner is directed to file a complaint to the District Collector, Pali for ventilating his grievances. The District Collector, Pali shall in turn get the complaint of the petitioner thoroughly enquired into by Public Land Protection Cell ('PLPC') formed in compliance of the directions given by this Court in the case of Jagdish Prasad Meena (supra). In case, after the enquiry of the PLPC, any of the petitioner's grievances still survives, he shall be at liberty to take recourse of the suitable legal remedy for redressal thereof.

The writ petition (PIL) is disposed of with above directions.

(DEVENDRA KACHHAWAHA),J **(SANDEEP MEHTA),J**

11-/-Sudhir Asopa