HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Spl. Appl. Writ No. 876/2024

The Commissioner, Municipal Council, Banswara (Raj.).

----Appellant

Versus

1. Smt. Pratibha Acharya W/o Kamal Nayan Acharya, Aged About 54 Years, R/o Kalika Mata Road, Banswara (Raj.).
2. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

Connected With

D.B. Spl. Appl. Writ No. 873/2024

The Commissioner, Municipal Council, Banswara (Raj.).

----Appellant

Versus

1. Smt. Reesha Pandaya W/o Shri Jignesh Pandaya, Aged About 38 Years, R/o Bhgyodaya Mahi Sarover Nagar, Housing Board, Banswara (Raj.).
2. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

D.B. Spl. Appl. Writ No. 875/2024

The Commissioner, Municipal Council, Banswara (Raj.).

----Appellant

Versus

1. Smt. Rajiya W/o Shri Abbas Ali, Aged About 49 Years, R/o Muslim Colony, Banswara (Raj.).
2. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

D.B. Spl. Appl. Writ No. 901/2024

The Commissioner, Municipal Council, Banswara (Raj.).

----Appellant

Versus

1. Smt. Parul Pandaya W/o Shri Umesh Pandaya, Aged About 41 Years, R/o Bhgyodaya, Mahi Sarover Nagar, Housing Board, Banswara (Raj.).
2. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

D.B. Spl. Appl. Writ No. 908/2024

The Commissioner, Municipal Council, Banswara (Raj.).

----Appellant

Versus

1. Kamal Nayan Acharya S/o Shri Chandra Shekhar Acharya, Aged About 58 Years, R/o Kalika Mata Road, Banswara (Raj.).
2. The State Of Rajasthan Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

D.B. Spl. Appl. Writ No. 910/2024

The Commissioner, Municipal Council, Banswara (Raj.).

----Appellant

Versus

1. Smt. Sunita W/o Shri Rajiv Sharma, Aged About 48 Years, R/o Chiranjiv Vihar, Gaziabad (U.p.) At Present Madhuban Colony In Front Of Cid Office, Banswara (Raj.).
2. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

D.B. Spl. Appl. Writ No. 943/2024

The Commissioner, Municipal Council, Banswara (Raj.).

----Appellant

Versus

1. Abdul Gaffar S/o Shri Abdul Gani, Aged About 58 Years, R/o Kandharwadi, Banswara (Raj.).
2. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

D.B. Spl. Appl. Writ No. 1036/2024

1. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).
2. The Commissioner, Municipal Counciil, Banswara (Raj.).

----Appellants

Versus

Smt. Ranjana W/o Shri Navratna Jain, R/o Shree Ram Colony, Banswara (Raj.).

----Respondent

D.B. Spl. Appl. Writ No. 919/2024

The Commissioner, Municipal Council, Bhilwara (Rajasthan).

----Appellant

Versus

1. Ravindra Kumar Nagar S/o Shri Panna Lal Nagar, Aged About 61 Years, R/o Ward No.20, Nagar Wada,

Banswara (Raj.).

2. The State Of Rajasthan, Through The Director, Department Of Local Self, Jaipur (Raj.).

----Respondents

For Appellant(s)	:	Mr. Ayush Gehlot for Mr. Rajesh Panwar, AAG
For Respondent(s)	:	Mr. Vinay Jain a/w Mr. Darshan Jain Mr. Devendra Prajapati

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HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order

10/01/2025

1. The matters comes up an application under Section 5 of the Limitation Act for condonation of delay.

2. For the reasons mentioned in the application, the same is allowed and the delay in filing the appeals is hereby condoned.

3. The present special appeals have been preferred by the appellants laying a challenge to the order dated 16.05.2024 passed by the learned Single Judge of this Hon'ble Court in a batch of writ petitions led by S.B. Civil Writ Petition No.12594/2022 (Smt. Pratibha Acharya Vs. State of Rajasthan & Anr).

4. Brief facts of the case are that the colony named Rohini Nagar was established in the Municipal Area of Banswara by the appellant, in which the respondents applied for allotment of plots in the Rohani Nagar Scheme. In year 1988, the Municipal Council Banswara, under the provisions of Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974, read with Rajasthan

Municipalities Act, 1959, allotted the residential plots to the respondents and subsequently issued a Patta in their favor in Rohini Nagar Scheme, Banswara.

4.1 A dispute arose between the Municipal Council, Banswara and the Forest Department of the State regarding land pertaining to survey no.273 rakba measuring 45 bigha 14 biswa, which was mutated in favor of the Forest Department on 02.01.1980 by mutation entry no.59. The Municipal Council and the Forest Department contested the matter, which resulted in a compromise executed between the Executive Officer of the Municipal Council and the District Forest Officer on 20.07.2006. In the compromise, it was decided that the land belongs to the Forest Department and should be utilized as forest. Consequently, on 29.12.1987, the allotments were set aside based on said compromise. However, the Municipal Council Banswara received 109.06 bighas of land in exchange for the land given in the compromise.

4.2 The respondents preferred writ petitions before the learned Single Bench of this Court seeking possession of the said plots in the Rohini Nagar Scheme, Banswara or alternatively, plots of similar size in any colony situated in the Municipal Area of Banswara.

4.3 The learned Single Bench of this Court, after considering the submissions, concluded that Municipal Council, Banswara shall require to explore the possibility of allotting plots of the same dimensions to the respondents from the area available to them.

5. Learned counsel for the appellant Municipal Council, Banswara submits that the Pattas could not have been transferred, as there is a condition for cancellation of Pattas if transferred and

thus, the respondents are not entitled to continuation of Patta. He further submitted that they are prepared to return the reserve price of the plots at current rates in lieu of the allotment made and its cancellation.

5.1 Learned counsel further submits that the Pattas were given at concessional rate, and therefore, any nearby or similarly situated plots could not have been given, as no such plots existed.

6. Mr. Vinay Jain, learned counsel for the respondents submits that the impugned order passed by learned Single Bench of this Court is perfectly justified in law because the respondents have remained in queue since 1988 with a valid Patta, and the direction was given merely to explore the possibility of alternative land of similar size for the respondents. He further submits that the Executive Officer of the Municipal Council, Banswara also issued letters regarding the plots in question seeking instructions from the Department of Local Self, Jaipur, but due to the dispute with the Forest Department, possession was not handed over to the respondents.

7. After hearing counsel for the parties and perusing the impugned order, this Court takes notes of the additional submission made by the Municipal Council, Banswara in their reply, which reads as under:-

> *"1. That as far as the additional affidavit filed in the similar writ petition by producing a copy of the order passed by the lok adalat Banswara in case no.16/2019 Nimesh Mehta Vs. The Commissioner & Anr. vide order dt. 05.01.2021 is concerned, the same is based upon the compromise order between the parties and it was agreed to allot a plot measuring 40*50 Square Feet total 2000 square feet in the Mahi Sarovar Scheme against the plot allotted to him in the Rohini Nagar*

Scheme. However, no vacant plot is available in the Mahi Sarovar Nagar Scheme. Therefore, the petitioner or similarly situated persons cannot claim a parity in allotment of plot. If the petitioner want to get back the amount of plot deposited by them or allottee then the Municipal Council is ready to refund the amount of plot with admissible interest. It is also stated that Hon'ble Supreme Court in case of New Okhla Industrial Development Authority, Noida V/s Unus & Ors. Civil appeal no.901/2022 has passed an order dt. 03.02.2022 wherein it is held that settlement decree cannot be sited as a precedent before a court of law to claim similar relief by others who were though similarly situated not a party to the compromise before the lok adalat. However, the Municipal Council in any other case if this Hon'ble Court founds that the petitioners or the allottees of Rohini Nagar are entitled to get the possession of the plot then the municipal council is ready to make out a plan for availability of the land in the municipal limit and if the same is available to it than by framing a new scheme, the petitioners may be adjusted in the new scheme on the equivalent size of plots by giving possession to them within a period of three months."

8. This Court, after thorough examination, is convinced that the respondents, who were holding valid Pattas issued by the Municipal Council, Banswara, since 1988, did not commit any such wrong which would disentitle them from the benefits of such Pattas. However, considering that the land in question has been transferred to the Forest Department, and taking into account the additional submissions made by the Municipal Council, Banswara in their reply, as quoted above, this Court is of the opinion that the order passed by learned Single Bench of this Court is perfectly justified, as neither a condition of nearby nor an adjoining is there in the impugned order, but merely directs exploration of the possibility of same-dimension plots anywhere within the Municipal Council Banswara's jurisdiction.

8.1. The Municipal Council Banswara has not come out with a clear stand regarding the availability of any area within its

jurisdiction that could be allotted to the respondents, whether through a special scheme or by utilizing plots in existing schemes. Such exploration is completely absent from the pleadings of appeals or any other submission made on behalf of Municipal Council Banswara. The impugned order simply directs the exploration of possibilities for allotting plots of the same dimension anywhere within the Municipal Council Banswara, which is justified given that the original land where the pattas were issued to the present respondents is now occupied by the forest department. Any other approach to achieve equity and balance would be challenging, as the land values between 1988 and 2025 have varied so significantly, potentially causing disproportionate effects on either party if compensation or costs were to be calculated.

9. In the given circumstances, the impugned order does not deserve any interference by this Court.

10. Consequently, the present appeals are dismissed.

(YOGENDRA KUMAR PUROHIT),J (DR.PUSHPENDRA SINGH BHATI),J

25 to 32 & 107-sudheer/-