

(2013) 09 RAJ CK 0210

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 16480/2013

Aam Janta Chaksu

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 20-09-2013

Acts Referred:

Citation : (2014) 1 WLN 102

Hon'ble Judges : Amitava Roy, C.J;Veerender Singh Siradhana, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Amitava Roy, C.J.—Heard Mr. Vijay Choudhary, learned counsel for the petitioners. The petitioners, who have introduced themselves to be the residents of Chaksu, Tehsil Chaksu in the District of Jaipur, have approached this Court with the instant proceedings seeking an appropriate writ, order or direction to the official respondents to protect the land claimed by them to be of the Municipal Board, Chaksu from the illegal occupation and use thereof by the respondents No. 7 to 11. According to them, the land situated in ward No. 17 known as "Gangadas ki bagichi" with structures thereon is recorded in the name of Municipal Board, Chaksu being located in khasra No. 5816, 5817 & 5818. The respondents No. 7 to 10 have instituted a suit in respect thereof in the Court of Civil Judge (JD) & Judicial Magistrate, Jaipur District, Jaipur seeking a decree for permanent injunction claiming that on 11.03.1940, patta had been issued to one Gangabaksh S/o Sadasukh Maheshwari for about 970 square yards of land, on which the patta holder raised constructions. Gangabaksh, having renounced the world, he handed over the property to Gyarsi Narayan, the father of respondents No. 7 to 10 who came to possess the same as the owner thereof. It is averred in the plaint that on the demise of Gangabaksh, when the respondents No. 7 to 10 started to construct a security wall on the land, they were intercepted by the officials of the Municipal Board, Chaksu-respondent No. 3 for which the suit had to be filed. According to the petitioners, the suit is being resisted by the

Municipal Board, Chaksu contending that the land is owned by it. The petitioners have stated that some unauthorized persons are trying to take over possession of the land in dispute as well as to demolish the structures thereon. They thus on 04.06.2013, moved an application before the Sub Divisional Officer, Chaksu seeking his intervention. According to the petitioners, the respondents No. 7 to 10 have now colluded with the officials of the respondent No. 3, and in pursuance thereof, have executed a sale deed on 29.04.2013 in favour of respondent No. 11. On a representation having been submitted by them, the District Collector, Jaipur forwarded the same to the concerned Sub Divisional Officer for enquiry and necessary action. The latter did submit a report endorsing the allegations made by the petitioners. However thereafter, no action has been taken. They thus, seek the aforementioned relief in the instant proceedings presented as a public interest litigation.

2. Upon hearing the learned counsel for the petitioners and on a consideration of the pleaded facts and the documents on record, we are not persuaded to intervene. A suit involving the same land is admittedly pending in a competent Court involving respondents No. 7 to 10 and respondent No. 3 Municipal Board, Chaksu, in which the plaintiffs have claimed right, title or interest therein and have sought for permanent injunction against respondent No. 3 to prevent it from interfering with their right of ownership and enjoyment of the land. As the aspect of right, title or interest in the land is involved in a civil suit, we do not consider it expedient to exercise the writ jurisdiction of this Court in the present proceedings by treating the same to be a public interest litigation. This petition is thus closed. No costs.