
(2014) 01 RAJ CK 0139

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 8965 of 2013

Babu Lal and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-01-2014

Acts Referred:

Citation : (2014) 3 RLW 2151 : (2014) 2 WLN 364

Hon'ble Judges : V.K. Mathur, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : Ramit Mehta, for the Appellant;

Final Decision : Dismissed

Judgement

Dinesh Maheshwari, J.—After having heard the learned counsel for the petitioners and having perused the material placed on record, we are satisfied that this petition has nothing of public interest so as to be entertained as a Public Interest Litigation ("PIL"). Moreover, this petition appears to be lacking in bonafide and rather appears to be of oblique and ill intents. By way of this petition, the petitioners, said to be the residents of different villages and Dhanis near Toonkaliya, Tehsil Merta, District Nagaur seek to state grievance against establishment of a Toll Plaza over a double-lane road, said to have been constructed by the Rajasthan State Road Development Corporation Ltd. The petitioners have alleged that the land of Khasra Nos. 2352 and 2794 of village Dhanapa is recorded as Nadi and Gochar land. It is averred that at the time of widening of the road, much of the land comprised in said Khasra Nos. 2352 and 2794 has been taken over in breach of law. While making cursory reference to the objections, allegedly made against construction of the road on the land aforesaid, the petitioners have averred that now, the road has been constructed and for collection of toll, a Toll Plaza is being constructed. It is submitted that though the Toll Plaza is on the road itself but is not at a proper place due to which, a particular portion of way towards agricultural fields is likely to be obstructed. It is further submitted that after establishment of the Toll Plaza, now

some civil construction would also be raised for the purpose of the staff working on collection of toll, for which the villagers did make objections and thereupon, the SDO Merta City, after taking reports from all the concerned, made a report on 06.03.2013 that Toll Plaza was to come up on the land of Khasra Nos. 2352 and 2794 of village Dhanapa, which was recorded as Gair Mumkin Nadi; and it was also likely to interfere with the other way towards agricultural fields. The SDO has gone to the extent of suggesting that even the flow of water would be obstructed because of the said Toll Plaza. While relying on the aforesaid report of SDO and with the submission that the land of Khasra Nos. 2352 and 2794, which is recorded as Nadi, cannot be allowed to be put to any other use, the petitioners have prayed as under:-

It is, therefore, humbly and respectfully prayed that by an appropriate writ, order or direction, the respondent-departments may kindly be directed to change the place of Toll Plaza from the Nadi land & Gochar land situated in Khasra No. 2352 & 2794 as stated in the site plan of Annexure 2 and further direction be given to the authorities that no construction should be allowed on Nadi land & Gochar land and further direction be given to restore the original position of Nadi situated in Khasra No. 2352 & 2794.

Any other appropriate order or direction, which this Hon"ble Court considers just, fit and proper in the facts and circumstances of this case, may kindly be passed in favour of the public/petitioners.

2. We have heard the learned counsel for the petitioners and have perused the material placed on record.

3. A bare reference to the facts makes it clear that a road has indeed been constructed long back at the site; and it is not the case of the petitioners that the road is not functional or is not being used for traffic movement. Widening of the road has also taken place and, admittedly, a part of the land of Khasra Nos. 2352 and 2794 has already been included in the road.

4. If collection of toll in relation to the road in question is permissible in law and when the Toll Plaza has admittedly been placed right on the road itself, it sounds rather preposterous that any suggestion about Nadi land is at all being made for the purpose of objection against this Toll Plaza. Even if the land had been recorded in the revenue records as Nadi, when the same has already gone in road and the road has become functional, it is but apparent that even if the revenue record has not been modified or corrected as such, in fact, Nadi has ceased to exist on the land in question.

5. It needs hardly any emphasis that a road for the proper traffic movement is as much of the public utility as any other requirement of public utility, including that of Nadi. If, with the natural course of development and expansion, the surface geographical conditions have taken a material change, the true factual position obtaining at site cannot be ignored.

6. Once the road has come up and collection of toll thereat is permissible in law; and when only the ordinary known method of the collection of toll is being employed, i.e., by laying of a Plaza right at the road itself, an objection thereto in the name of Nadi land could only be considered as misconceived and suffering from ill-intents.

7. So far the suggestion about some additional civil construction is concerned, again, the position remains more or less the same. From the submissions as made, it is apparent that such a construction is part and parcel of the total establishment of Toll Plaza. The objection against the same remains equally unfounded.

8. Another strange nature suggestion that establishment of Toll Plaza is likely to interfere with the other way towards agricultural fields makes it clear that the only intention of the petitioners and the other objectors is to somehow avoid the establishment of the Toll Plaza in question. It is nowhere clear as to how a Toll Plaza on the road, which is only for collection of toll from the users of road, could at all be considered interfering with the other way towards agricultural fields.

9. It appears from a look at the material on record that probably, this establishment of Toll Plaza and thereby the requirement of making payment of toll has been sought to be avoided on one pretext or another. In that regard, firstly, a baseless suggestion about disturbance to a nearby school was made. Then, the issue of cleanliness of the area was raised. It appears that while dealing with the representations made by some of the villagers, the SDO, in his over-zealousness, even suggested that the flow of water was likely to be disturbed. We hope that the SDO concerned was not attempting to go to the extent of suggesting as if the road takes the shape of the regular Nadi or stream! In our view, the learned SDO had not been discreet in making over-zealous comments despite the fact that the road is admittedly in existence at the site since long; and without specifying if the land is at all used as a Nadi, as known to the Rajasthan Tenancy Act. We are unable to read the comments of SDO as lending any support to the cause sought to be suggested by the petitioners.

10. We may, in the passing, observe that ultimately as to where a particular Toll Plaza is to be established on the road is a matter to be left for the consideration of the authorities concerned; and the petitioners cannot be acceded a right to suggest as to where a particular Toll Plaza ought to be established.

11. In any case, when the Toll Plaza in question has come up right on the existing road and other construction, if any, is for the purpose of Toll Plaza alone, we find nothing of public interest having been compromised by the respondents so as to entertain this matter as a PIL. The petition stands dismissed.