
(2021) 03 RAJ CK 0059
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4183 Of 2021

Bhoop Ram Yadav And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 16-03-2021

Acts Referred:

Citation : (2021) 03 RAJ CK 0059

Hon'ble Judges : Sangeet Lodha, J;Rameshwar Vyas, J

Bench : Divison Bench

Advocate : Navneet Poonia

Final Decision : Disposed Of

Judgement

1. This writ petition has been preferred by the petitioners seeking directions to the respondents to remove encroachments made over the land of 'Guawad' (Open Chowk) of Village Kohla, District Hanumangarh and make the land free from all encroachments and restore its position as it exists prior to encroachment.

2. In D.B.C. Writ Petition (PIL) No.10819/18 "Jagdish Prasad Meena & Ors. vs. State of Rajasthan & Ors.", a Bench of this Court at Jaipur with a view to provide a pan-Rajasthan solution for persisting problem of encroachment on the land of public use, public way, johar paitan, river bed etc., issued directions as under:

"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 head 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 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.

Observations of the Supreme Court in *Jagpal Singh* (supra) thus leave no manner of doubt that removal of encroachment on all such land is a rule and regularisation an exception and that too in extremely limited number of cases, which only the Government can do by appropriate notification of the government and no other authority."

3. In view of the directions already issued by this Court as aforesaid, no further directions are required to be issued in the instant case. The petitioners may approach the Public Land Protection Cell (PLPC) of District Hanumangarh constituted pursuant to the directions of this Court in *Jagdish Prasad Meena's* case (supra). Needless to say that the representation to be made by the petitioners shall be considered by the PLPC in accordance with law.

4. The petition stands disposed of with the observation as above.