

(2010) 01 RAJ CK 0053
In the Rajasthan High Court

Chema Ram

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 11-01-2010

Acts Referred:

Citation : (2010) 01 RAJ CK 0053

Hon'ble Judges : Jagdish Bhalla, C.J.;Dinesh Maheshwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The appellant-petitioner by filing the writ petition in the year 2004 (CWP No. 158/2005) attempted to submit that his land as comprised in khasra No. 432 at village Dhorimana District Barmer, was acquired in the year 1976 for construction of road; and that no compensation was paid to him by the Government.

2. In the impugned order dated 8.2.2007, the learned Single Judge of this Court declined to interfere in the writ jurisdiction while observing that the appellant-petitioner failed to produce the requisite documents to show as to how, if at all, the proceedings of land acquisition were adopted and concluded. The learned Single Judge further observed that if award had been passed in favour of a wrong person or was inadequate, the same could have been challenged in accordance with law. The learned Single Judge found no reason to interfere in the matter by entertaining the writ petition when the appellant-petitioner attempted to raise the controversy for the first time after a long period of 27 years.

3. In this intra-court appeal, the learned Counsel for the appellant-petitioner submits that essentially the submissions of the petitioner-appellant are that the matter may be referred to the concerned Collector for making necessary enquiries and to award compensation to the petitioner-appellant, if so found payable.

4. Having heard the learned Counsel for the appellant and having perused the

material placed on record, we find no ground to entertain this appeal or grant any indulgence to the petitioner-appellant. It is noticed that the road in question was laid in the year 1976 after due acquisition proceedings and it is borne out from the record that the land as comprised in khasra No. 432 belonging to the petitioner-appellant was never acquired. It appears that later, in the year 2000, the petitioner-appellant was served with notices for his having made encroachment on the road; and a part of the construction as raised by the petitioner-appellant was allegedly removed as being of interference with the road. However, such a fact situation alone hardly makes out a case for interference in the writ jurisdiction on the claim now sought to be made by the appellant- petitioner. If any of the respondents had committed any error or illegality in removing the construction while taking the same as encroachment, the petitioner- appellant ought to have adopted appropriate remedy for enquiry into the facts. So far as the claim of compensation is concerned, the learned Single Judge has not committed any error in declining to entertain the writ petition after 27 years of the acquisition proceedings.

5. We have further noticed that the respondents in their reply before the learned Single Judge categorically asserted that the land of the petitioner- appellant as comprised in khasra No. 432 was never acquired. The respondents further asserted that unauthorised construction was put by the appellant- petitioner at the place falling within 75 feet of National Highway therefore notice was issued to him on 19.5.2000 (Annex. R/5); that the appellant-petitioner, by moving an application (Annex. R/6) submitted that he would remove the encroachment before 31.7.2000; and that upon the appellant-petitioner yet failing to remove the encroachment, necessary order was passed for such removal on 25.8.2000 (Annex. R/7). The appellant- petitioner did not join the issue nor refuted the facts asserted by the respondents by submitting affidavit in rejoinder.

6. In the given state of record, we do not find any ground to entertain this intra-court appeal.

7. The appeal fails and is, therefore, dismissed.