
(2013) 03 RAJ CK 0069

In the Rajasthan High Court

Case No : Civil Review Application No. 21 of 2004

Gurudwara Prabandhak Committee (Jaipur West)	APPELLANT
Vs	
Goms Defence Colony Association for Welfare and Development and Others	RESPONDENT

Date of Decision : 30-03-2013

Acts Referred:

Citation : (2013) 2 CDR 1021

Hon'ble Judges : Amitava Roy, C.J;Meena V. Gomber, J

Bench : Division Bench

Advocate : A.K. Sharma, assisted by Mr. Reashm Bhargava, for the Appellant; A.K. Sharma assisted by Mr. Reashm Bhargava for Respondent No. 3 and Mr. Mahendra Goyal for JDA, for the Respondent

Final Decision : Allowed

Judgement

1. Heard Mr. A.K. Sharma, Senior Advocate assisted by Mr. Reashm Bhargava for the review applicant/respondent No. 3 in D.B. Civil Writ Petition No. 3866/2003 as well as Mr. Mahendra Goyal, learned counsel for the Jaipur Development Authority (for short, hereinafter referred to as "the JDA"). Though the name of the learned counsel for the writ petitioners is shown in the cause list, nobody is in attendance. Having regard to the year of registration of the review petition, we are not inclined to adjourn the hearing. The writ petition referred to hereinabove was registered as public interest litigation at the instance of the Goms Defence Colony Association for Welfare and Development, Khatipura, Jaipur and two others, who alleged in substance that the JDA had allotted a plot of land earmarked as greenbelt to the review applicant/respondent No. 3 for construction of Gurudwara. They alleged that if constructions are permitted to come up, the same would have the potential of destroying the greenbelt conceived in the public interest.

2. The JDA in its reply in categorical terms stated that no allotment out of greenbelt had been made to the review applicant/respondent No. 3 and that out

of an area measuring 3870.95 sq. mtrs. identified as facility area, 1506.97 sq. mtrs. had been allotted to it (review applicant/respondent No. 3) for construction of its Gurudwara and that a plot admeasuring 2363.98 sq. mtrs. had only been handed over to the review applicant/respondent No. 3 for developing and maintaining a park.

3. Though in the aforementioned PIL, the review applicant/respondent No. 3, at the time of disposal thereof, was shown to have been represented by Mr. D.V. Anand, Advocate it is now contended before us that it had not authorized him to represent in the proceedings. Be that as it may, as this Court in the attendant facts and circumstances, is inclined to dispose of the review application on merits, it is not considered essential to further dilate on this aspect of the debate.

4. Mr. Sharma, has submitted that in the face of categorical stand of the JDA, the direction to demolish the construction made in the park area as contained in the judgment and order dated 19.02.2004 has the potential of adversely affecting the Gurudwara constructed by it and as well of prohibitive bearing on any proposed construction on the land allotted to it by the JDA, permitting the same. In view of the clear categorization of two plots of land hitherto allotted/handed over by the JDA to the review applicant/respondent No. 3, the impugned judgment and order to this extent is thus liable to be modified, he argued.

5. Mr. Goyal, learned counsel for the JDA has drawn our attention to the letter dated 30.12.2006 of the Deputy Secretary, Urban Development Department addressed to the Secretary, JDA, Jaipur conveying the decision of the government to allot as well the land admeasuring 2363 sq. mtrs. to the review applicant/respondent No. 3. According to him, however, no further action has been taken by the JDA on this letter in view of the pendency of the review application.

6. Upon hearing the learned counsel for the parties and on a consideration of the factual background as above, more particularly, the stand taken by the JDA in its affidavit in the original proceedings as well as the contents of the letter dated 30.12.2006, we are of the view that the judgment and order dated 19.2.2004 rendered in D.B. Civil Writ Petition No. 3866/2003, needs corrective modification to the extent, as prayed for. Consequently, it is ordered that the direction for demolition, as contained therein, would no apply to the review applicant/respondent No. 3 vis-a-vis the land allotted to it by the JDA, as referred to in the letter dated 30.12.2006.

The review application is thus allowed to the above extent.