
(2019) 02 RAJ CK 0046

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 16025 Of 2018

Jassa Ram And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 06-02-2019

Acts Referred:

Citation : (2019) 02 RAJ CK 0046

Hon'ble Judges : Pradeep Nandrajog, J;Pushpendra Singh Bhati, J

Bench : Division Bench

Advocate : Manoj Bhandari, Babu Lal Bishnoi, Rameshwar Lal Dave, Manish Patel

Final Decision : Dismissed

Judgement

1. This writ petition in the form of public interest litigation has been preferred seeking the following reliefs:

"10/A. By an appropriate writ, order or direction, the order dated 29.11.2017 (Annex.7) passed by the District Collector and District Program Coordinator NAREGA, may kindly be declared illegal and be quashed and set aside.

10/B. By an appropriate writ, order or direction, the respondents be restrained to raise construction of the office of Gram Panchayat Bhawan of Gram Panchayat Govindpura on the present site situated in Khasra No.699 and 699/1 with immediate effect.

10/C. In the alternative, without prejudice to above, the respondents be directed to construct the office of Gram Panchayat Govindpura at an appropriate place near the Abadi Area of Village Govindpura in accordance with the provisions of Panchayati Raj Act and Rules made thereunder.

10/D. By an appropriate writ, order or direction, the Resolution passed by the Gram Panchayat dated 2.10.2017 (Annex-3) for raising construction of Office of Gram Panchayat Govindpura and the relevant Khasras i.e. 699 and 699/1 may kindly be declared illegal and be quashed and set aside.

10/E. Any other appropriate order or direction, which this Hon'ble Court may deem fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner.

10/F. The costs may kindly be awarded in favour of the petitioner."

2. As the pleaded facts would reveal, the present petitioners are the residents of Village Chandsama, Tehsil Dechu, District Jodhpur. The grievance as raised in the present petition is arising out of the decision of the Panchayati Raj Department to raise construction over the revenue land and agricultural land in Khasra No.699 on Abadi land for Panchayat Bhawan of Govindpura.

3. Learned counsel for the petitioners submits that Khasra No.699 is part and parcel of Village Chandsama and the construction, which is being made is on the public way declared under the Revenue Record. As per learned counsel for the petitioners, the said public way travels from Chandsama Chouraha to Jeevanlai Nadi and also passed through khasra No.485, where graveyard/place for cremation is existing. Learned counsel for the petitioners thus submits that such construction of the Office of Gram Panchayat, Govindpura would certainly obstruct and block the public way.

4. Learned counsel for the petitioners further submits that the construction of the Office of Gram Panchayat, Govindpura is being made over the land belonging to Village Chandsama, which is clearly evident from the Revenue Record of Samvat 2070-2073. Thus, as per learned counsel for the petitioners, since the land in question belongs to another Village, the construction of the Office of Gram Panchayat, Govindpura cannot be raised over the land in question, moreso when such construction would block and obstruct the public way.

5. Learned counsel for the petitioners has drawn the attention of this Court towards the Jamabandi of Khasra No.485, which is a Gairmumkin Shamshan and Khasra No.484, which is a Gairmumkin Nadi, for which the public way is cutting across Khasra No.699 of Village Chandsama. Learned counsel for the petitioners thus submits that the construction of the Office of Gram Panchayat, Govindpura would be highly prejudicial not only to the residents of Village Chandsama, but also to the residents of Village Govindpura, Tehsil Dechu.

6. Learned counsel for the petitioners further drew the attention of this court towards Annexure-3, which is the Resolution dated 02.10.2017 passed by the Gram Panchayat, Govindpura to raise construction over the land belonging to the Gram Panchayat, Chandsama.

7. Learned counsel for the petitioners also submitted that the construction is being made on the Public Road, which has been shown to be at least 40 feet wide, and if the construction of the Office of Gram Panchayat, Govindpura is raised over the land in question, which is belonging to the Village Chandsama, the same would result into obstruction in the public way.

8. To substantiate his contention regarding factum of the land in question being

part and parcel of the Abadi lying in Khasra No.699 under Village Chandsama, learned counsel for the petitioners submitted that the said fact can be fortified by the site report prepared by the Tehsildar, who had also reported that the construction is being made on the land belonging to Village Chandsama. Thus, as per learned counsel for the petitioners, the said construction is not permissible under the law.

9. Per contra, learned counsel for the respondents submitted that the present petitioners have concealed the relevant fact regarding the land of Khasra No.699 being part of the Gram Panchayat, Govindpura. To substantiate this argument, learned counsel for the respondents have referred to the notification dated 05.11.2014, whereby the area has already been notified and as per the site map of newly constituted Gram Panchayat, Govindpura, it has its own area over which the building for Gram Panchayat, Govindpura is being constructed in khasra No.699, which is a government Abadi Land.

10. Learned counsel for the respondents further submitted that as per the sanction given by the District Collector, Jodhpur vide order dated 29.11.2017, the building for Gram Panchayat, Govindpura is to be constructed, and accordingly, the construction for the building of Gram Panchayat, Govindpura started over the land marked for the same in the area of Gram Panchayat, Govindpura in Khasra No.699.

11. After hearing learned counsel for the parties and seeing Annexure-R/3/1 conjointly with the map produced by the petitioners alongwith Annexure-2, it is clear that the land of khasra No.699 is a part of Gram Panchayat, Govindpura, and as per the aforementioned notification dated 05.11.2014, the area has already been notified.

12. This Court also notices that the construction in question is being made in the newly constituted Village Govindpura, and the land in question falls in khasra No.699, which is a government Abadi land.

13. This Court also finds that as per the sanction given by the District Collector, Jodhpur vide its order dated 29.11.2017, the building for Gram Panchayat, Govindpura is to be constructed accordingly.

14. It is apparent that the dispute in hand has occurred due to the newly constituted Village Govindpura, being carved out of the existing old Village Chandsama, and therefore, the opposition of the residents of Village Chandsama is nothing but a public cry pertaining to distribution of assets between both the villagers, even when the notification dated 05.11.2014 and the order dated 29.11.2017 passed by the District Collector, Jodhpur reasonably take care of the issue.

15. It is also clear from a bare reading of the notification dated 05.11.2014 that carving out of the Village Govindpura out of Village Chandsama is a lawful act and khasra No.699 where the construction in question is being made is well

within the realm of law.

16. In view of the above, no case for interference is made out in the present writ petition filed in the form of public interest litigation, and hence, the same is accordingly dismissed. However, the respondent No.2 shall ensure that the construction of the Office of Gram Panchayat, Govindpura shall not obstruct any public way marked in the revenue record.