
(2001) 04 RAJ CK 0068
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3754 of 2000

Komal Chand

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-04-2001

Acts Referred:

Citation : (2001) 2 RLW 1301 : (2001) 2 WLC 500

Hon'ble Judges : A.R. Lakshmanan, C.J.;A.K. Parihar, J

Bench : Division Bench

Advocate : Rajendra Prasad, for the Appellant; Mohd. Rafique, A.A.G. and P.C. Jain, for the Respondent

Judgement

Lakshmanan, C.J.—The petitioner in this writ petition is one Komal Chand Patni. He has filed the writ petition against the State of Rajasthan and Girish Chand Agarwal and four others. The prayer in the writ petition is to quash the order No. 5:13 : NA: UDH1: 3:2000 dated 23.6.2000 (Annex. 1) and to direct the respondents not to change and alter or modify the master plan of Jaipur City by changing land use of the subject lands. There are other consequential and incidental prayers. Notices have been served on the non-petitioners Nos. 2 to 6 and they are now represented by Dr. P.C. Jain. In the writ petition, the first respondent is represented by Shri Mohd. Rafique, Addl. Advocate General. The Govt. has also filed reply to the writ petition. It is seen from the reply that the State Government on a consideration of the entire matter found that the procedure prescribed was not followed in the matter and therefore, the Govt. by its order dated 23.3.2001 has withdrawn the order dated 23.6.2000. The copy of the said order has been filed along with the reply as Annexure R1/1. In view of the withdrawal of the order dated 23.6.2000, it is submitted by Mr. Mohd. Rafique, the learned Addl. Advocate General and also by the learned counsel for the Petitioner that the writ-petition has become infructuous and the same may be dismissed as having become infructuous. The order dated 23.3.2001 runs as under:-

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2- lfpo] t;iqj fodkl izkf/kdj.k] t;iqjA

3- Jh fxjh"k dqekj pUnz vxzoky] ,Q- 35] ?khlk ekxZ] cuhikdZ] t;iqjA

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(2). Shri P.C. Jain, learned counsel appearing for respondents Nos. 2 to 6 states that the order dated 23rd March, 2001 has been passed by the State Government without giving any opportunity to the respondents and that the impugned order in the writ petition has been withdrawn by the order dated 23rd of March, 2001 during the pendency of the writ petition. It is also submitted that the respondents Nos. 2 to 6 have been dragged to the Court and now it is stated that the order impugned in the writ petition, which was passed in their favour has been withdrawn by the State Government by the order dated 23rd of March, 2001. Therefore, Shri P.C. Jain submits that the respondents Nos. 2 to 6 should be sufficiently compensated.

(3). It is true that the order dated 23rd of June, 2000 was challenged in the present writ petition by the writ petitioner. The ground of challenge is that by Annexure-I, use of the land was permitted to be changed by the respondent State and, therefore, the petitioner filed the writ petition to quash the order dated 23.6.2000 and for other consequential prayers. The Government, which is the first respondent in the writ petition on realising the error and mistake pointed out by the petitioner and on reconsideration of the entire matter found that the

procedure prescribed for the change of land use was not followed in the present case. In this case, the author of the impugned order is the State Government. The State Government has passed the impugned order and has now withdrawn the same on realising the mistake which was committed by it. Under these circumstances we cannot hold in the present writ petition that the order now passed by the State Government i.e. the order dated 23.3.2001, withdrawing the earlier order dated 23.6.2000 is, bad in law. However, we make it clear that since the order dated 23.6.2000, which was passed in favour of the respondents Nos. 2 to 6 has been withdrawn without any notice to the respondents Nos. 2 to 6 thus, they are now at a liberty to challenge the order dated 23.3.2001 in accordance with law.

(4). Reserving the liberty to the respondents Nos. 2 to 6 to challenge the order dated 23.3.2001, this writ petition stands disposed off accordingly. However, there will be no orders as to costs.