

(2013) 04 RAJ CK 0059

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 1626 of 2013

Paras Ram and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 09-04-2013

Acts Referred:

Citation : (2013) 3 WLN 45

Hon'ble Judges : Narendra Kumar Jain, J;Mahendra Maheshwari, J

Bench : Division Bench

Advocate : Gopal Acharya, for the Appellant;

Final Decision : Dismissed

Judgement

Narendra Kumar Jain-II, J.—Heard learned counsel for the petitioners. The petitioners have preferred this public interest litigation with a prayer that respondents may be directed to take the steps to remove the encroachments of the unauthorized occupants from the land belonging to cremation ground.

2. Submission of learned counsel for petitioners is that there is a cremation ground at Sainik Basti, Nagaur, which has been encroached by respondent Nos. 4 and 5, the petitioner submitted a representation to District Collector, Nagaur to remove the trespassers, but no action has been taken, therefore, necessary directions may be issued for removal of the trespassers over the land belonging to cremation ground.

3. We have considered the submissions of learned counsel for the petitioners and also examined the various documents placed on record with the writ petition.

4. From Annexure-6, it appears that respondent No. 4, Jeevan Singh has filed suit against Acharya Samaj, Nagaur through its office bearers and petitioner No. 1-Paras Ram and petitioner No. 4-Amrit Lal have been shown as office bearers of Acharya Samaj, Nagaur. The civil suit for permanent injunction and injunction in mandatory form against the petitioner Nos. 1 and 4 in respect of same matter is

pending before Civil Judge (Junior Division), Nagaur. Learned counsel for petitioners submitted that there is no interim stay in favour of plaintiff-Jeevan Singh, therefore, it was a duty of the District Administration to remove the encroachment from the cremation ground.

5. Be that as it may, the matter is sub-judice before the Civil Court. The petitioner Nos. 1 and 4 are also party in the said suit. In case, there is any obstruction in the public way or trespass/encroachment over the land belonging to cremation ground, then it is open for the petitioners, who are defendants in the civil suit, to move an application before the concerned Court for grant of injunction in mandatory form against the plaintiff i.e. Respondent No. 4-Jeevan Singh. In case such an application is filed, the same will be considered and disposed of by the concerned Court, in accordance with law. With the aforesaid observation, the writ petition is dismissed.