

(2019) 11 RAJ CK 0031

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 19347 Of 2019

Radhey Shyam Meena

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 18-11-2019

Acts Referred:

Citation : (2019) 11 RAJ CK 0031

Hon'ble Judges : Indrajit Mahanty, CJ; Mahendar Kumar Goyal, J

Bench : Division Bench

Advocate : Nawal Singh Sikarwar

Final Decision : Disposed Of

Judgement

This writ petition in the form of PIL has been filed with the following prayers:

"It is, therefore, most respectfully prayed that your lordships may graciously be pleased to accept and allow this writ petition and

(i) issue a writ order or direction in the nature thereof thereby call for the entire record of the land and may kindly direct the respondents authorities to remove the encroachment of encroachers upon land bearing khasra no.19 Rakba 11 Beegha 4 Biswa recorded as Gair Mumkin Nala, situated at Village Shyampura @ Habibpura, Patwar Halka Doongarpur, Tehsil Ramgarh Pachwara, District Dausa in the larger interest of justice.

(ii) issue a writ order or direction in the nature thereof the respondents may kindly restrain not raise any construction of road or any other construction upon the land bearing Khasra no.19 Rakba 11 Beegha 4 Biswa recorded as Gair Mumkin Nala, situated at Village Shyampura @ Habibpura, Patwar Halka Doongarpur, Tehsil Ramgarh Pachwara, District Dausa in the larger interest of justice.

(iii) issue any other order or direction which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case may also be passed in

favour of the petitioner.

(iv) Cost of the writ petition be also awarded in favour of the petitioner."

The coordinate bench of this Court vide its order dated 30.01.2019 in D.B. Civil Writ Petition (PIL) No.10819/2018, Jagdish Prasad Meena & Ors. vs. State of Rajasthan & Ors. has directed as under:

"In order therefore to provide a pan-Rajasthan solution to this ever persisting problem, we deem it appropriate to direct the Chief Secretary of the State to devise a permanent mechanism, which should be operational in every District of the State where the concerned District Collector should be required to periodically notify for the information of the general public to lodge the complaints/representations with regard to such encroachments with a specially designated Public Land Protection Cell (for short 'PLPC') for rural areas. The PLPC should be headed by District Collector and function under his direction and supervision. The PLPC shall get such complaints/representations enquired into by deputing concerned Sub Divisional Officer/Tehsildar/Naib Tehsildar so as to verify whether or not such encroachments have actually taken place on such land. If the allegations are found to be substantiated, appropriate steps in accordance with law be immediately taken for removal of the encroachments and appropriate penal action be also taken against the trespassers. The complaints/representations received in the PLPC should be decided by passing speaking order, informing the respective complainant/ representationist about the action taken. This would obviate the necessity of such complainants/ representationists approaching this Court directly by way of public interest litigation. If this practice is put in place, this Court would not be inclined to directly entertain such public interest litigation or would do so only in the event of inaction on the part of the concerned PLPC.

The PLPC aforementioned shall also keep in view the guidelines issued by the Supreme Court in Jagpal Singh & Others Vs. State of Punjab & Others, (2011) 11 SCC 396 wherein all the State Governments of the country were directed that they should prepare schemes for eviction of illegal/unauthorised occupants of the Gram Sabha/Gram Panchayat/Poramboke/ Shamlat land and the same must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. The said scheme should provide for the speedy eviction of such illegal occupants, after giving them a show cause notice and a brief hearing. It was further held therein that long duration of the illegal encroachment /occupation of land or huge expenditure in making construction thereon or political connections of trespassers are no justification for regularising such illegal occupation. Regularisation should be permitted only in exceptional cases where lease has been granted under some government notification e.g. to landless labourers or members of Scheduled Castes/Scheduled Tribes or where there is already a school, hospital, dispensary, 'shamshan', 'kabristan' or other public utility of the like nature on the land. Observations of the Supreme Court in Jagpal Singh (supra) thus leaves no manner of doubt that removal of encroachment on all

such land is a rule and regularisation an exception and that too in extremely limited number of cases, which only the Government can do by appropriate notification of the government and no other authority.

List this matter on 14.03.2019.

A copy of this order be sent to the Chief Secretary of the State of Rajasthan, Government Secretariat, Jaipur, who shall ensure compliance of this order and do the needful for creation of Public Land Protection Cell (PLPC) for rural areas."

The instant writ petition is also disposed of in the light of directions contained in the case of Jagdish Prasad Meena (supra). The petitioner shall submit his representation with the Public Land Protection Cell, which shall examine the same and decide the representation by passing speaking order and informing the petitioner about the decision/action taken.