

(2013) 07 RAJ CK 0299

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 166 of 2013 in Civil Writ Petition No. 342 of 2013

Rajkumar Taya

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2013) 4 WLN 213

Hon'ble Judges : Sangeet Raj Lodha, J; Govind Mathur, J

Bench : Division Bench

Advocate : M.R. Singhvi, assisted by Mr. Dileep Kawadia and Mr. Mohit Singhvi, for the Appellant; Rameshwar Dave, for the Respondent

Final Decision : Dismissed

Judgement

Govind Mathur, J.—An application submitted by the appellant-petitioner to have registration of the marriage place in the name of "Sajan Vatika" came to be rejected under an order dt. 02.11.2012 passed by the Commissioner, Municipal Council, Udaipur. A revision petition giving challenge to the order aforesaid came to be disposed of by the revisional authority vide the order dt. 12.12.2012 with the following directions:--

Being aggrieved by the order passed by the Commissioner, Municipal Council, Udaipur and the revisional authority, the appellant-petitioner preferred a petition for writ, wherein as an interim measure the Municipal Council, Udaipur was directed to take appropriate decision relating to registration of marriage place. The Municipal Council under an order dt. 04.02.2013 transmitted entire record of the case to the Director, Local Self Government being unable to take a decision in view of the fact that the revision petition was opposed and contested by it.

2. Subsequent thereto, an order dt. 13.02.2013 was passed by the Commissioner, Municipal Council, Udaipur granting registration to the marriage place in the name of "Sajan Vatika". On grant of such permission, Mohan Lal

Sukhadia University, Udaipur and two other persons, namely, Bhuvnesh Maheshwari and Suresh Mal Mehta preferred applications for being impleaded as respondents to the writ proceedings. While opposing the applications, learned counsel for the appellant-petitioner pointed out that the writ petition itself has become infructuous in view of the order dt. 13.02.2013.

3. Learned Single Judge by the order impugned disposed of the applications and ordered as under:--

20. Thus, this Court is of the considered opinion that the applicants should be allowed to intervene in the matter so as to have a right of say in the present lis at the time of final hearing of the writ petition but they will not have any right to file any pleadings and they may not be impleaded as respondents in the present writ petition, expanding its scope unnecessarily.

21. The writ petition itself may be listed for final hearing in the month of May, 2013.

22. Till the decision of the writ petition, the operation of the order passed by the learned Commissioner, Municipal Council, Udaipur on 13.2.2013 shall remain stayed and the fate of the same would abide by the result of this writ petition. I.A. No. 674/2013, I.A. No. 855/2013 and I.A. No. 858/2013 are accordingly disposed of.

4. In appeal, the argument advanced by learned counsel for the appellant is that being not a subject-matter of writ proceedings, learned Single Judge erroneously interfered with the order dt. 13.02.2013. It is asserted that as a consequent to passing of the order dt. 13.02.2013, the writ petition preferred by the appellant-petitioner became infructuous, thus, no occasion was there to proceed further with the writ proceedings.

5. We have perused the order impugned. Learned Single Judge while disposing of the applications preferred by different parties to be impleaded as respondents examined entire record of the case and on examination of the order dt. 13.02.2013 found that the Commissioner, Municipal Council, Udaipur, despite being aware of pendency of litigations relating to title of the land in question, granted registration in favour of the petitioner. Looking to all facts of the case, a prima facie opinion is formed by learned Single Judge that the grant of registration was not justified. In such circumstances, the order impugned was passed.

6. We are of the opinion that while exercising powers under Article 226 of the Constitution of India, the Court can very well look into validity of an order available on record, though may not have been challenged by any party and also bonafides of a public officer in exercising his authority. Learned Single Judge on basis of the facts available made a prima facie opinion about justifiability of the order dt. 13.02.2013. Suffice to mention that during the course of arguments, we also came to know through Mr. G.R. Punia, learned Senior Advocate, that a

petition for writ has also been filed before this Court by Mohan Lal Sukhadia University, Udaipur giving challenge to the order dt. 13.02.2013 and in that petition for writ too an interim order has been passed staying operation of the order granting registration of "Sajan Vatika" and while granting the interim order, an order has also been passed to connect that writ petition with the writ petition from which the present appeal is arising. Having considered all these facts, we are not at all inclined to interfere with the order impugned. The appeal is dismissed, accordingly. S.B. Civil Writ Petition No. 342/2013 and S.B. Civil Writ Petition No. 2573/2013 are required to be heard together.