

(2020) 11 RAJ CK 0012
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10458 Of 2020

Sanwla Ram And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 06-11-2020

Acts Referred:

Citation : (2020) 11 RAJ CK 0012

Hon'ble Judges : Sandeep Mehta, J;Devendra Kachhawaha, J

Bench : Division Bench

Advocate : Jagdish Kumar Vishnoi

Final Decision : Disposed Of

Judgement

The petitioners have approached this Court by way of this writ petition (PIL) with the following prayers:-

"(i) by an appropriate writ order or direction the respondents authorities may be directed to remove all illegal encroachments made by respondent No.4 on khasra No.759/491 situated at Magha Ki Dhani, Gram Panchayat Kharwa (Bhakarpura) reserved/entered as gochar land (Annex.2).

(ii) by an appropriate writ order or direction the respondents may be directed to removed the pucca house/jopra and its boundary made by encroachers, so also, the other various encroachers who made encroachments upon gochar land (kasra No.759/491) of Magha Ki Dhani, tehsil Gudamalani, District Barmer;

(iii) by an appropriate writ, order or direction, an exemplary cost may kindly be imposed upon the respondent authorities for not considering the problems of public at large and failure in removing illegal encroachments/discharging their public duty for such a long period.

Having heard and considered the submissions advanced at Bar and have gone through the material available on record, we are of the firm view that the petitioners have available to them a suitable remedy for ventilating their

grievances by virtue of the Division Bench Judgment of this Court in the case of Jagdish Prasad Meena & Ors. Vs. State of Rajasthan & Ors. passed in D.B. Civil Writ Petition (PIL) No.10819/2018 decided on 30.01.2019 wherein this Court directed as below:-

"This Court is inundated with large number of writ petitions, styled as public interest litigation, from almost all the Districts of the State, with allegations of encroachment over the pasture land/ land of 'johad', 'talab'/ river/river bed/ public way/Shamshan/Kabristan etc. In all such petitions, common allegation is that despite repeated complaints/representations to the concerned revenue officers, no steps are taken by them to remove the encroachment. This results in number of writ petitions being filed by the complainants/representationists before this Court. This Court has been passing orders in such matters requiring the respective District Collectors to examine the factual content of the allegations and take steps to remove the encroachments so as to secure such land.

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 showcause 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.

Thus, the petitioners are relegated to submit a representation to the District Collector concerned, who shall assign the matter to the PLPC constituted under the directions of this Court.

The PLPC shall have a thorough enquiry conducted into the representations of the petitioners in light of the directions given by this Court in the case of Jagdish Prasad Meena (Supra).

In case, any adverse order is passed, the petitioners shall be at liberty to challenge the same as per law.

The writ petition is disposed of in the above terms.