

(2013) 07 RAJ CK 0190

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 8898 of 2013

Sundaram Saini

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:

Citation : (2013) 3 WLN 390

Hon'ble Judges : Amitava Roy, C.J.;Veerendr Singh Siradhana, J

Bench : Division Bench

Advocate : Saransh Saini, for the Appellant;

Final Decision : Dismissed

Judgement

Amitava Roy, C.J.—Heard Mr. Saransh Saini, learned counsel for the petitioner. For the order proposed to be passed, it is considered inessential to issue formal notice.

2. The petitioner claims to be a permanent resident of Mohalla Tamera, Ghumchakkar, Udaipurwati in the District of Jhunjhunu. He has introduced himself to be a vigilant citizen of the locality and dedicated to public service. He has averred, in substance, that the respondent No. 5 alongwith others (not impleaded in the petition) had been indulging in encroachments over open public spaces with impunity, and inspite of his representations before the concerned authority of the jurisdictional municipal board as well as the advocate's notice dt. 29.03.2013 to the executive officer thereof and other district level functionaries, no action has yet been taken to prevent these activities. The petitioner however, has admitted that the respondent No. 5, who is his sister-in-law (wife of his brother, Vinod Kumar Saini) had purchased a plot of land measuring 307 square yards in khasra No. 1697 at Ghumchakkar from one Ramchandra Nangaliya S/o Late Shri Gauridatt Mahajan by a sale deed. He has alleged that the respondent No. 5 however, has raised illegal constructions beyond her land and though the area is a residential colony, she has been

indulging in commercial activities without however undertaking the legal procedure in connection therewith. He however, has admitted that this respondent has meanwhile filed an application for issuance of commercial patta also by including the land encroached upon by her. He has alleged collusion between the respondent No. 5 and the Executive Officer, Municipal Board, Udaipurwati, Jhunjhunu and also the other authorities, who had been made aware of these illegal activities by him through his representations and the aforementioned advocate's notice.

3. Upon hearing the learned counsel for the petitioner and on a consideration of the averments made in the petition, we are not satisfied that the same do constitute a cause of action to initiate a public interest litigation. The petitioner's version with regard to illegal activities, in our comprehension, patently focuses on the indulgences of the respondent No. 5, who admittedly is the owner of a plot of land in her possession, she having purchased the same through a sale deed. The petitioner has admitted further that meanwhile, this respondent has submitted an application for issuance of commercial patta vis-a-vis the land in her possession. The other encroachers though have been named in the petition, have not been impleaded as respondents. The visible thrust of the petitioner's allegations is against the related activities of the respondent No. 5 and demonstrates a private dispute capable of being addressed by alternative courses contemplated in law. The allegation of collusion, to reiterate, according to us, is too vague to be acted upon. We also do not feel persuaded by the petitioner's credentials as a public spirited person to maintain the instant petition as a public interest litigation. The petition is thus rejected. It is however made clear that the instant determination would not debar the petitioner from pursuing other legal remedies, if a cause of action in law so permits.