
(2013) 11 RAJ CK 0022
In the Rajasthan High Court
Case No : Civil Writ-Petition No. 1423/2012

Uke Khan

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 13-11-2013

Acts Referred:

Citation : (2014) 2 WLN 294

Hon'ble Judges : Amitava Roy, C.J;Pratap Krishna Lohra, J

Bench : Division Bench

Judgement

Amitava Roy, C.J.—Heard Mr. Mohit Vyas, learned counsel for the petitioners and Mr. Sandeep Shah, learned counsel appearing on behalf of the respondents. The petitioner, who are the residents of Phaphariya Kotwal Basti, seek judicial intervention in the instant proceedings laying it as a public interest litigation. They have averred that the land involved had been kept reserved as park/playground in the Master Plan of Bheenmal and had been maintained as such for several years. The Department of Urban Development, Govt. of Rajasthan vide Notification of 26.05.1998 had authorized the Additional Chief Town Planner (Master plan), Jaipur to undertake the civic survey and to design the master plan of the urban area of town Bheenmal. After completion of the process as prescribed, the Master Plan of Bheenmal 1998-2023 was notified vide Notification dt. 07.02.2006. The land in question is a plot in Khasra No. 1700, which the petitioners have reiterated, had been kept reserved as park/open space/play ground in the said Master Plan. According to them, the land in the aforementioned Khasra surrounding the plot so reserved, however, had been sold by its khatedar and is being used for residential purposes. It, however, transpired that the khatedar of Khasra No. 1700 was contemplating to sell the said land reserved for park/play ground as well. Being concerned by this move, the petitioners in a representative capacity registered their objections with the respondent No. 4, Municipal Board, Bheenmal to resist the same. On this, the matter was forwarded to the Jr. Engineer of the Municipal Board for making a detailed report. The inspection of the site revealed that the southern part of the

land of Khasra No. 1700 had been kept reserved for park/open space/play ground and on a report being submitted to the said effect, the Executive Officer of the Municipal Board, Bheenmal communicated this disclosure to the Sub Registrar, Bheenmal with a request for not accepting any deed for registering the conveyance of the said land by sale. A public notice was also issued by the Municipal Board, Bheenmal restraining the sale of the said land.

2. While the matter stood at that, the Board vide communication dt. 02.02.2012 conveyed to the Sub Registrar, Bheenmal that the proceedings with regard to the land, restraining the sale thereof had been dropped. Pursuant thereto, the Sub Registrar, Bheenmal accepted the sale deed with regard thereto and registered the same on 03.02.2012. Contending that the decision of the Municipal Board, Bheenmal, dropping the objection proceedings with regard to the sale of the land involved is apparently illegal and further that the purchasers would use the same for commercial purpose, the petitioners have approached this Court for remedial intervention.

3. Learned counsel for the petitioners has reiterated the above narrated pleaded facts to justify the reliefs sought for.

4. A bare perusal of the letter dt. 02.02.2012 of the Executive Officer of the Municipal Board, Bheenmal, would disclose in no uncertain terms that the land involved, on a detailed enquiry and scrutiny of the records, was found to be one for agriculture of which Masoom Ali etc. were the khatedars as entered in the revenue records. According to the Board, the khatedar had the right in law to sell the said land and it (Board) had no authority to resist and/or obstruct the process related thereto. Accordingly, the advertisement earlier issued prohibiting the sale in question and the proceedings in connections thereto were withdrawn/dropped.

5. The contents of the letter dt. 02.02.2012 evinces that a conscious decision has been taken by the Board on verification of all relevant aspects and examination of the records. Admittedly, the sale of the land had taken place by a registered sale deed dt. 02.02.2012. The apprehension expressed by the petitioners is that the purchasers are likely to use the same for commercial purposes. In permitting such sale and the registration of the deed in connection therewith inferably the Sub Registrar must have examined all relevant aspects, legal and factual as well. The petitioners have admitted that the khatedar of the land in the said Khasra had earlier sold portions thereof and the conveyed plots are being used for residential purposes.

6. Having regard to the attendant facts and circumstances of the case, we are of the view that judicial intervention by treating the instant proceeding to be a public interest litigation, is not called for. If the petitioners are really aggrieved by the sale of the land in question, there are other forums available for the reliefs in connection therewith, as contemplated in law. This petition is, thus, closed.