

(2011) 08 RAJ CK 0069
In the Rajasthan High Court
Case No : Civil Writ Petition No. 11381 of 2011

Ummed Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 30-08-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2011) 08 RAJ CK 0069

Hon'ble Judges : Narendra Kumar Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narendra Kumar Jain, J.—Heard learned counsel for the Petitioner.

2. The Petitioner has preferred this writ petition, wherein it is averred that he is recorded tenant of land bearing Khasra Nos. 853, 854, 861, 862, 873, 876, 877, 879, 881, 882, 883 and 885, total measuring 38 Bighas, situated near Kharwa Railway Station. It is further pleaded that Kharwa Railway Station is situated at Ajmer-Ahemdabad railway track, in front of land of the Petitioner, coal, which is being used in the factory of Gujarat Ambuja Cement (Respondent No. 3) is being loaded and unloaded since 1999 and due to this so-called illegal loading and unloading of coal, coal dust comes in his agricultural field and his agricultural land has become barren, therefore, by appropriate writ, order or direction, Respondents may be directed to stop so-called illegal loading and unloading of coal in the Railway Station Kharwa, District Ajmer and Respondents may further be directed to pay a sum of Rs. 35 Lakhs as compensation for damages to the Petitioner.

3. Submission of learned counsel for the Petitioner is that since 1999, loading and unloading of coal for factory of Ambuja Cement is going on in front of Petitioner's land, which has created nuisance and he is suffering in this regard since 1999 and his agricultural land has become barren, therefore, the Petitioner

is entitled for compensation for damages etc.

4. I have considered submissions of learned Counsel for the Petitioner.

5. The questions, whether the Petitioner's land has become barren or not, if yes, then to what extent and further whether the Petitioner is entitled to compensation, as prayed in the writ petition, if yes, then to what extent, are purely the questions of facts. Such questions can be decided only on the basis of evidence to be adduced in the case by parties after affording an opportunity of cross-examination of respective witnesses to opposite party. Such disputed questions of fact cannot be decided in writ jurisdiction under Articles 226 and 227 of the Constitution of India. The Petitioner should approach before proper forum in this regard.

6. In view of above, I do not find any merit in this writ petition and the same is, accordingly, dismissed in limine.