
(2015) 05 RAJ CK 0218

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 6303/2015

Vijay Khandelwal and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 29-05-2015

Acts Referred:

Citation : (2015) 4 WLN 219

Hon'ble Judges : Ajit Singh and Anupinder Singh Grewal, JJ.

Bench : Division Bench

Advocate : Kapil Prakash Mathur, Advocate, for the Appellant; S.K. Gupta, AAG and Rahul Agarwal, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard on admission.

In the present Public Interest Litigation, the petitioners have prayed for a direction against respondent No. 2-Municipal Corporation, Ajmer to demolish the construction made by respondent Nos. 6 to 11. The petitioners have also prayed that respondent No. 2 be directed to repossess the land and restore the temple.

The petitioners are resident of Ajmer town. Petitioner No. 1 in fact is councilor in the Municipal Corporation, Ajmer. According to them, land marked as AMC No. 406/28, 422/09 and 227/05 belongs to temple but the same has been illegally sold by respondent No. 5-Bhagat Ram, Manager of temple in favour of respondent Nos. 6 to 11. The petitioners have also alleged that respondent Nos. 6 to 11 are illegally constructing commercial complex on the land of temple and, therefore, respondent No. 2 be directed to demolish the same.

2. Respondent Nos. 6 to 11 in their reply have stated that they have purchased the land in question by a registered sale deed dt. 22nd June, 2012 from respondent No. 5 and thereafter had submitted a map for sanction to construct before respondent No. 2. They have also stated that respondent No. 2 sanctioned the map for construction on 13th February, 2014, pursuant to which they have

almost completed the construction work. An affidavit has also been filed on behalf of respondent No. 6 stating therein that construction is being done strictly in accordance with sanctioned plan dt. 13th February, 2014 and the use thereof, shall also be as per sanctioned plan. Respondent Nos. 6 to 11 have further stated that a civil suit No. 108/2014 for the cancellation of sale deed has already been filed against them in a civil Court which is still pending. According to respondent Nos. 6 to 11, in the civil suit, the application for grant of temporary injunction has been rejected on merits and the petitioners have illegally filed the present Public Interest Litigation with an ulterior motive to harass them. Respondent Nos. 6 to 11 have further pleaded that they cannot be persecuted for the same cause before the civil Court and the High Court.

3. The learned counsel appearing for respondent No. 5 has stated that respondent No. 5 has legally sold the land in question in favour of respondent Nos. 6 to 11 by a registered sale deed. He has also submitted that different portions of the same land have even earlier been sold by three different registered sale deed to different persons and the petitioners have not challenged those sale deeds. According to the learned counsel, the petitioners have deliberately targeted respondent Nos. 6 to 11 for extraneous considerations.

4. Learned Additional Advocate General appearing for respondent No. 2 has submitted that although sanction has been granted in favour of respondent Nos. 6 to 11 for construction of building, they must restrict the construction and use of building only as per sanctioned plan.

5. From the pleadings brought on record, it is apparent that respondent Nos. 6 to 11 have purchased the land in question by a registered sale deed dt. 22nd June, 2012 from respondent No. 5. And respondent No. 5 had earlier also sold different portions of the same land to different persons and the registered sale deeds in respect to those sale have not been questioned by the petitioners. Also for the cancellation of sale deed executed in favour of respondent Nos. 6 to 11 by respondent No. 5 civil suit No. 108/2014 has already been filed in which application for grant of temporary injunction has been rejected on merits. Not only this, respondent Nos. 6 to 11 have almost completed the construction work pursuant to its sanction by respondent No. 3. It is also to be noted that land does not belong to the Government and its sale deed cannot be questioned in a writ jurisdiction. Having regard to these facts and also considering the fact that construction work of respondent Nos. 6 to 11 has already been completed, we find no good ground to entertain the petition. It is however, made clear that if the construction made by respondent Nos. 6 to 11 is found to be different from the sanctioned map, respondent No. 2 will be at liberty to take action against them in accordance with law. With the above observation, the petition is, dismissed.