



RAJASTHAN HIGH COURT
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 22746/2025

1. Pradushan Nivaran And Paryavaran Sanrakshan Samiti, Through Its Chairman Tulasa Ram S/o Modaram Aged 56 Years R/o Gandhipura, Balotra.
2. Omprakash S/o Purushottamadas, Aged About 43 Years, R/o 271 Am Chauhata, Asotara, Barmer.
3. Chandraprakash S/o Babu Lal, Aged About 43 Years, R/o Hanuwant Colony, Ward No.30, Balotra.

----Petitioners

Versus

1. State Of Rajasthan, Through Principal Secretary, Public Works Department, Jaipur, Rajasthan.
2. District Collector, Balotra.
3. Commissioner, Nagar Parishad, Balotra.
4. Tehsildar, Pachpadra, Balotra.

----Respondents

For Petitioner(s) : Mr. Devendra Singh Rathore with
Mr. Sumer Lal

For Respondent(s) : Mr. Rajesh Panwar, Sr.Adv. & AAG
assisted by Mr. Ayush Gehlot.
Ms. Kanchan Jodha associate to
Mr. N.S. Rajpurohit, AAG
Mr. Divik Mathur (Court
Commissioner)
Mr. Kartik Singh Lodha.

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE DR. JUSTICE NUPUR BHATI**

Order

26/05/2026

1. The present Public Interest Litigation concerns the construction/strengthening of a BT road from Chhatriyo Ka Morcha to the Mega Highway along the Luni River. The petitioner alleges that, instead of being constructed over the existing Gair Mumkin Katan Raasta as envisaged in the master plan, the road is being



laid through the river bed comprised in Khasra No. 1894/1741 (Gair Mumkin Nadi) and adjoining khasras. Aggrieved thereby, and after making representations to the concerned authorities, the petitioner has approached this Court by way of the present petition.

2. Learned counsel for the petitioners has drawn the attention of this Court to Annexure-A/1, namely, the report submitted by the District Collector, Balotra and the Tehsildar, Pachpadra. The report records two separate methodologies adopted for demarcation and measurement of the site and arrives at the following conclusion: :-

“xxx xxx

निष्कर्ष :- प्रथम बार में बिन्दु "अ" ग्राम बिठूजा व ग्राम बालोतरा की सीमा पर लगा हुआ सीमा चिन्ह (दोहदा नेखम) संख्या 96, बिन्दु "ब" खसरा संख्या 507, 510 व 511 के मौके पर मौजूद तिमेड़ा को मुस्तकिल बिन्दु कायम किया गया तत्पश्चात् खसरा संख्या 460 व 461 के मध्य उत्तरी कोने पर बालोतरा-समदड़ी रेलवे लाईन पर बिन्दु संख्या "स" कायम किया गया इसी प्रकार खसरा संख्या 465 व 466 के मध्य उत्तरी कोने पर बालोतरा-समदड़ी रेलवे लाईन पर बिन्दु संख्या "द" कायम करते हुए जबकि दूसरी बार में प्रथम बिन्दु "क" ग्राम बालोतरा के खसरा संख्या 513, 502, 507 व 511 का चौमेड़ा, बिन्दु "ख" ग्राम बालोतरा के खसरा संख्या 535, 534, 533, 536 के चौमेड़ा व बिन्दु संख्या "ग" ग्राम बालोतरा के खसरा संख्या 555 गैर मुमकिन बेरा में स्थित कुआ के मध्य बिन्दु को कायम मानते हुए सड़क की स्थिति को ज्ञात किया गया जिसमें बिन्दु संख्या अ,ब, स व द से प्राप्त स्थिति मौकानुसार मेल खाती है जबकि क, ख वग से सीमाज्ञान करने पर रेलवे लाईन बालोतरा, बालोतरा-समदड़ी सड़क एवं अधिकांश खसरो की मेड़ (सीमाए) राजस्व रेकॉर्ड अनुसार मौके से उत्तर की ओर स्थानान्तरित (Shift) होती हैं चूंकी खसरे सघन आबादी बसावट में स्थित हैं। जिससे नदी का खसरा भी मौके से उत्तर की ओर स्थानान्तरित (Shift) होता है। तदनुसार बिन्दु संख्या अ, ब, स व द से ज्ञात स्थिति रेकॉर्ड व मौका अनुसार तुलनात्मक रूप से अधिक उचित है।

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3. A plain reading of the aforesaid conclusion prima facie indicates that the road in question has been constructed over land recorded as Gair Mumkin Nadi.





4. Mr. Rajesh Panwar, learned Senior Counsel and Additional Advocate General, assisted by Mr. Ayush Gehlot, learned counsel, submits that the road is a public utility project intended to facilitate transportation and connectivity. It is contended that infrastructure projects of such nature inevitably require crossing river stretches and, therefore, the utilization of the land in question cannot be viewed in isolation from the larger public interest sought to be served.

5. As regards the aforesaid proposition advanced on behalf of the respondents, this Court is unable to accept the contention that considerations of public utility can, by themselves, justify the utilization of land recorded as a river bed. River land constitutes a distinct environmental and ecological resource, and its character cannot be altered or compromised merely because a proposed project serves a public purpose. Where public infrastructure is required to traverse a river stretch, recourse must ordinarily be had to appropriate engineering solutions, such as bridges, elevated corridors or pillar-supported structures, which preserve the integrity and natural character of the river bed without disturbing its surface. If the very surface of land recorded as Gair Mumkin Nadi is permitted to be appropriated for road construction, it would create an impermissible precedent whereby public authorities could routinely utilize river land merely because it is readily available and does not require acquisition proceedings. Such an approach would enable the State or local bodies to avoid the financial, legal and administrative obligations associated with planned development and lawful acquisition of land, a course





which cannot be countenanced in a system governed by the rule of law.

5.1. This Court is also of the prima facie view that permitting the use of river beds and lands recorded as Gair Mumkin Nadi for public utility projects merely on the ground of convenience would have far-reaching consequences. If such an approach is accepted, river lands across the State would gradually become vulnerable to encroachment and conversion for roads, buildings and other developmental activities under the guise of public interest. Over a period of time, this would result in the progressive disappearance of river beds and natural drainage channels from the landscape, thereby defeating their ecological purpose and adversely affecting flood management, groundwater recharge and environmental sustainability. The protection of river lands, therefore, cannot be viewed only from the perspective of the present project, but must also be considered in light of the larger obligation of preserving such natural resources for future generations.

5.2. This Court cannot also lose sight of the geographical and ecological realities of the State of Rajasthan. Unlike perennial river systems found in certain other parts of the country, a substantial number of rivers in Rajasthan are seasonal or ephemeral in nature and carry water only during particular periods of the year. Their river beds may remain dry for considerable durations, but such temporary absence of visible water does not alter their legal or ecological character as river land. On the contrary, these river channels perform a vital function during monsoon periods by carrying flood waters, facilitating natural drainage, recharging groundwater aquifers and maintaining ecological balance in an





otherwise water-scarce region. The Luni River itself, being one of the principal river systems of western Rajasthan, traverses an arid landscape where preservation of natural drainage corridors assumes even greater significance. If dry or seasonally inactive river beds are treated as vacant land available for public utility projects, there exists a serious apprehension that such lands would gradually cease to exist as river systems in revenue records as well as on the ground. Acceptance of such a course would not only compromise environmental sustainability but would also expose future generations to increased risks of flooding, disruption of natural water flow, depletion of groundwater resources and irreversible degradation of natural drainage systems. Such an outcome would be wholly inconsistent with the constitutional obligation of the State to protect and preserve the environment and its natural resources for present and future generations.

6. This Court is conscious of the fact that river beds, lake beds and even sea stretches are often traversed by bridges, elevated corridors and other transportation infrastructure. However, the construction of such structures stands on an altogether different footing. Such projects are ordinarily designed in a manner that preserves the underlying water body and permits the natural flow of water without obstruction. A bridge or elevated roadway supported on pillars cannot be equated with a permanent roadway constructed directly upon the surface of land recorded as Gair Mumkin Nadi.

7. This Court is further of the prima facie opinion that the construction of the road upon land recorded as Gair Mumkin Nadi appears to have been undertaken primarily for administrative





convenience, so as to avoid the obligation of creating a lawful and properly planned roadway through due acquisition proceedings and at the requisite financial cost. Such an approach cannot be countenanced. By no stretch of imagination can a project be justified as a public utility measure if, in the process, the revenue record identifying the land as "Gair Mumkin Nadi" is rendered nugatory. Acceptance of such a proposition would permit public authorities to disregard the character of land recorded in public records whenever it is found expedient to do so. The charts and demarcation reports placed before this Court prima facie substantiate the aforesaid position.

8. At this juncture, Mr. Rajesh Panwar learned Senior Counsel and AAG submits that he shall consult the concerned technical experts and examine the feasibility of elevating the road structure on pillars or adopting such other engineering measures as may ensure that the river land remains unobstructed and unaffected while maintaining the requisite public connectivity.

9. The proposal put forth by learned Senior Counsel and AAG appears to be bona fide and deserves consideration by the competent authorities in accordance with law.

10. Accordingly, learned Senior Counsel and AAG shall file an affidavit setting out, in clear terms, the manner in which the authorities propose to address the aforesaid concern. The affidavit shall be accompanied by an expert report examining the technical feasibility of the proposed solution. Upon consideration thereof, this Court shall pass appropriate directions for the protection and preservation of the river land and shall also examine whether any consequential action is required against the authorities responsible





for permitting construction upon land recorded as Gair Mumkin Nadi.

11. Further, paragraph 6 of the Court Commissioner's report, reproduced hereinbelow, shall also be specifically addressed by learned Senior Counsel and AAG, particularly with regard to whether the sharp curve between points 'J' and 'K' can be suitably rectified so as to obviate potential traffic hazards and ensure public safety:

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6. That the road in question which is enumerated as points 'A to M' is a pakka damar road running around in 2 kms, the road is largely straight except for one part that is points 'J to K' which are a sharp cut. The road in question on one part starts from Mega Highway and ends at a place called Chhatriyo ka Morcha (also popularly known as Naya bus stand), along side Luni River, and is primarily being used as a way to connect city of Balotra with Mega Highway.

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12. List the matter after four weeks.

(DR.NUPUR BHATI),J

(DR.PUSHPENDRA SINGH BHATI),J

10-/Devesh/surabhi/-

