



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

D.B. Civil Writ Petition No. 544/2020

Sumer

----Petitioner

Versus

1. The State of Rajasthan, through Chairman, Revenue Board, Todermal Marg, Civil Lines, Ajmer, Rajasthan-305001.
2. Divisional Commissioner, Old High Court Premises, Collectorate Paota, Jodhpur-342001.
3. District Collector, Barmer, District Collector Office, District Barmer-344001.
4. S.D.M. Balotra, S.D.M. Office, Balotra, District Barmer, Raj-344022.
5. Tehsildar, Pachpadra, Tehsil Office Pachpadra, District Barmer, Raj-344022.
6. Nayab Tehsildar, Jasol, Nayab Tehsildar Office, Near Ahinsa Circle, Jasol, District Barmer, Raj-344024.

----Respondents

For Petitioner(s) : Mr. S.P. Sharma
Mr. Vipul Singhvi

For Respondent(s) : Mr. Sunil Beniwal, AAG

For Applicant(s) : Mr. Girish Joshi with Mr. M.S. Rajpurohit
and Mr. Rishabh Handa
Mr. Abhinav Jain
Mr. Subham Modi
Mr. Alkesh Agarwal
Mr. Manish Rajpurohit
for Mr. Rakesh Arora

**HON'BLE MR. JUSTICE VIJAY BISHNOI
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT**

Order

03/05/2023

1. This writ petition has been filed by the petitioner in public interest while alleging that illegal constructions/encroachments have been made by several persons on the riverbed/land of River Luni and despite identifying the same, the administration is not



taking any action to demolish/remove such illegal construction/encroachments.

2. This Court vide order dated 07.09.2020, while taking a serious view about the matter, summoned the District Collector, Barmer as well as the Superintendent of Police, Barmer with a direction to produce the programme of removal of encroachment/demolition over the land of River Luni. This Court further restrained the Civil Court/Revenue Court to entertain any civil suit or civil proceedings pertaining to the encroachments over the land of River Luni and granted liberty to those persons, who have allegedly encroached over the land of River Luni and claiming that they have title over the encroached land and structure constructed thereon, to approach this Court.

3. Pursuant to the said order, various persons filed applications for impleading them as party respondent in this writ petition.

4. This Court while taking into consideration the said applications, filed on behalf of various persons, passed the order dated 10.12.2020 on the basis of programme/report filed on behalf of the State Government. In that programme/report, it was mentioned that 20 encroachments falling under category 'A' have been successfully removed and the encroachments, as per the action plan 'B' and 'C', would also be removed within the stipulated period. It was also mentioned in that programme report that the encroachments categorized in 'D' category would be removed by 31.12.2020.

5. Taking into consideration the above facts and circumstances of the case, this Court directed the respondents to remove the



encroachments as mentioned in action plan 'B' and 'C' within stipulated time and also directed to remove the encroachments mentioned in action plan 'D' by 31.12.2020 while protecting the persons, who have been identified as encroachers over the land of River Luni, till their applications are pending consideration before this Court.

6. Thereafter vide order dated 11.04.2022, this Court observed that it is not possible for this Court to take upon itself the factual enquiry regarding status quo of the applicants, whose applications are pending consideration before this Court for the reason that the process would include recording of oral evidence and perusal of various material on record and, therefore, granted liberty to the applicants to approach the SDM, Balotra within a period of 30 days with further direction to the SDM, Balotra to decide those applications expeditiously within an outer limit of three months.

7. This Court also ordered that the protection against dispossession to the 27 applicants will continue subject to the condition that they would file an application before the SDM, Balotra within a period of 30 days. This Court further clarified that if any one of them does not move application before the SDM, the interim protection granted earlier shall automatically come to an end.

8. Pursuant to the above direction, 41 applications were received by the SDM, Balotra, who have decided all the said applications and as per its decision, out of 41 applications, 19 were allowed and 22 were rejected.



9. Now, some applications have been filed on behalf of the applicants, whose applications were rejected by the SDM, Balotra, before this Court claiming that due to the decision taken by SDM, Balotra, their rights over the land will be adversely affected.

10. Be that as it may, we are of the opinion that once the SDM, Balotra has taken a decision regarding the status of all the applicants pursuant to the direction given by this Court, the said decision of the SDM, Balotra cannot be looked into by this Court while hearing this writ petition filed in public interest.

11. We may clarify that the applicants, whose applications were rejected by the SDM, Balotra, can very well challenge the said order by availing appropriate remedy available to them under the law. However, at the same time, the State Government is directed to initiate action to remove the illegal encroachments from the riverbed / land of River Luni expeditiously.

12. With these observations, this writ petition is disposed of.

(YOGENDRA KUMAR PUROHIT),J

(VIJAY BISHNOI),J

Abhishek Kumar
S.No.22