



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

S.B. Civil Writ Petition No. 18158/2024

Satya Narayan Tak S/o Shri Bheru Lal Ji Tak, Aged About 35 Years, Resident Of Tak Bhawan, Luhariya, Khermaliya, District Chittorgarh (Raj.).

-----Petitioner

Versus

1. State Of Rajasthan, Through The Director, Department Of Local Self, G-3, Rajmahal, Residential Area, C-Scheme, Civil Line Phatak, Government Of Rajasthan, Jaipur.
2. The Commissioner, Municipal Corporation, Udaipur.

-----Respondents

For Petitioner(s) : Mr. Sanjay Nahar
Mr. Dhruv Gehlot,
Mr. Pushkar Taimni

For Respondent(s) : Mr. Anurag Shukla

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Order

02/12/2024

1. Heard learned counsel for the petitioner.
2. The present writ petition has been filed against the order dated 11.10.2024 passed by the respondent No.2-Commissioner, Municipal Corporation, Udaipur, whereby, the application preferred by the petitioner for entering his name in Revenue Records (for mutation) has been rejected.
3. Briefly noted the facts in the present writ petition are that there is a plot ad-measuring 2640 square feet situated at Savina Kheda, Udaipur in the joint name of Shri Prithvi Singh and Smt. Doli Kunwar, who were issued a freehold patta under Section 69A of the Act of 2009 on 12.07.2023 and the said patta was registered on 18.09.2023. The petitioner purchased this plot from the predecessor in title by registered sale deed dated 27.09.2023 for a consideration of Rs.26,21,000/-. The petitioner after



purchasing the plot, approached the competent authority for granting permission for construction of the residential building, which has been granted to him vide permission dated 06.06.2024.

4. In pursuance of the permissions granted, the petitioner started the construction of the residential house on the said plot. While the construction was in progress, one Smt. Shobha Kunwar claiming herself to be the owner of the plot in question, filed a suit before the learned trial Court along with an application for temporary injunction. The trial Court dismissed the application for Temporary Injunction vide order dated 20.07.2024. The order dated 20.07.2024 was assailed by filing an appeal and the same was also dismissed by the Appellate Court vide order dated 23.09.2024.

5. The petitioner, while undertaking the construction of the building in question, has filed an application for mutation of the subject piece of land in his name, however, the application preferred by the petitioner has been rejected vide order dated 11.10.2024 on the ground that a suit is pending against him before the trial Court. Hence, the present writ petition has been filed.

6. Learned counsel for the petitioner submits that the petitioner is the bonafide purchaser of the subject piece of land and the sale of the plot of the petitioner is not in dispute. He further submits that due permission for construction of the house has been granted by the competent authorities of the respondent department in pursuance of which, the petitioner is undertaking the construction of his house. Learned counsel also submits that despite the application for temporary injunction having been rejected by the learned trial Court and the appeal against the same has also been rejected, as such, the respondent authorities



are harassing the petitioner by rejecting his application for mutation entries.

7. Learned counsel for the petitioner submits that there is no impediment for the respondents to enter the name of the petitioner in the revenue records of the subject piece of land. Despite that, on a very flimsy ground, the application preferred for mutation of the land in the name of petitioner has been rejected. He, therefore, prays that the writ petition may be allowed.

8. Per contra, learned counsel for the respondents though tried to defend the order of rejecting the application, however, he is unable to countenance the submissions made by learned counsel for the petitioner.

9. I have considered the submissions made at the bar and gone through the relevant record of the case.

10. The undisputed facts narrated above clearly show that the petitioner is a bonafide purchaser of the land in question from the registered patta holder of the land. The trial Court, in the suit preferred by Smt. Shobha Kunwar, has already rejected the application for temporary injunction. The order of dismissal of the temporary injunction application has also been affirmed by the learned Appellate Court. Despite rejection of the stay application/temporary injunction application of Smt. Shobha Kunwar, the respondents are not entering the name of the petitioner in the revenue record on the basis of the pending suit, which in the opinion of this Court appears to be absolutely arbitrary and unreasonable. This Court is shocked to see the ground on which the application preferred by the petitioner has been rejected. The petitioner is rightfully entitled to get his name mutated in the revenue records, but on the absolutely frivolous



ground, the application preferred by the petitioner has been rejected.

11. Learned counsel for the respondents is not in a position to defend the rejection of the application preferred by the petitioner.

12. The facts narrated above clearly disclose that the authorities have rejected the application of the petitioner without application of mind. It is a settled proposition of law that pendency of a suit cannot be a ground to restrain the government officials from discharging their duties, more particularly, when the temporary injunction application filed in the suit has been rejected. Not only this, the appeal preferred against the rejection of the temporary injunction application has also been rejected by the Appellate Court.

13. In view of the discussion made above, the present writ petition merits acceptance and the same is allowed. The order dated 11.10.2024 passed by the respondent No.2 is quashed and set aside. The respondents are directed to allow the application preferred by the petitioner for mutation of the entries of the plot in his name.

14. Needless to say, the construction permission granted earlier shall be revived after the mutation entries are made in the name of the petitioner.

15. The stay petition as well as other pending misc. applications, if any, stand disposed of accordingly.

(VINIT KUMAR MATHUR),J

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