



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

S.B. Civil Writ Petition No. 7319/2018

Shri Mandar Jain Sangh, Mandar,

-----Petitioner

Versus

1. Gram Panchayat, Mandar, Through Its Sarpanch, Tehsil-
Reodar, District Sirohi.

2. Additional District Collector, Sirohi.

-----Respondents

For Petitioner(s) : Mr. B. S. Sandhu
Mr. Shreyansh Mardia

For Respondent(s) : Mr. J. L. Purohit, Sr. Advocate assisted
by Mr. Shashank Joshi
Mr. Kuldeep Singh Solanki for
Mr. Manish Patel

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Order

12/04/2022

The matter is listed in the orders category on an application (Inward No.01/2022) for early listing of the matter.

For the reasons mentioned in the application, the same is allowed.

With the consent of learned counsel for the parties, the matter is being heard finally at this stage.

The present writ petition has been filed against the order dated 04.05.2018 passed by Additional District Collector, Sirohi, whereby the Revision Petition preferred by the petitioner has been rejected.

The brief facts of the case are that the petitioner being the Khatedar owners of the land in Khasara Nos.943 & 944 located in



Gram Mandar preferred an application to Gram Panchayat, Mandar for the construction of a building. The Gram Panchayat passed an interim order dated 23.06.2015 refusing to grant permission for raising construction. It was stated in the interim order dated 23.06.2015 that the petitioner may submit the documents to show that how the land was converted from "*Mafi Dharmada Po Bharayi Panch Mahajan Khatedar*" to "*Panch Mahajanan Khatedar*".

The petitioner preferred a Revision Petition under Section 97 of the Rajasthan Panchayati Raj Act, 1994 before the Additional District Collector, Sirohi. The Additional District Collector, Sirohi vide order dated 04.05.2018 rejected the Revision Petition on the ground that the land for which the petitioner has sought permission to construct a community hall and other buildings is a Public Utility Land and, therefore, the interim order granted by the Gram Panchayat on 23.06.2015 was just and proper and the revision petition against the interim order granted by the Gram Panchayat was rejected by the Additional District Collector, Sirohi.

Learned counsel for the petitioner submits that as per the revenue entries, the subject piece of land is shown to be in the name of *Panch Mahajan Khatedar* and, therefore, there is no question to dispute the title of the land at this stage. He further submits that the Panchayat Authorities have no right as per law to question the title of the land which is in the favour of the petitioner. He, therefore, prays that the permission sought for from the Gram Panchayat should be decided independently without taking into consideration the fact of conversion of revenue entries in the name of *Panch Mahajan Khatedar*.

Per contra, learned senior counsel for the respondents submits that since the land is a Public Utility Land and, therefore,



the Gram Panchayat has rightly asked for the documents by which entries of the land were changed to the Panch Mahajan, and, therefore, the interim order passed by the Gram Panchayat was just, proper and correct and the order passed by the Additional District Collector rejecting the revision petition does not warrant any interference by this Court.

Learned senior counsel submits that the appeal against the conversion order dated 15.09.2014 is pending before the Board of Revenue. Learned senior counsel further submits that the writ petition preferred by the petitioner may be dismissed and the permission for construction should be given after the disputes pending in the Revenue Courts attains finality.

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

The revenue record placed before this Court shows that the last entry as per revenue record is in the name of *Panch Mahajan Khatedar* and, therefore, as per the revenue authorities, the petitioner is the person who is holding the right title and ownership of the subject piece of land. It is also noted that an application preferred by certain villagers under Section 136 of the Land Revenue Act, 1956 was rejected against which an appeal has been preferred and the proceedings are pending at the appellate stage. Further proceedings with respect to the conversion order dated 15.09.2014 is also pending before the Board of Revenue, Ajmer. Thus, the revenue entries in the name of petitioner as stand today creates no doubt with respect to the title of the land in question. It is also noted that the Panchayat has no authority to decide the question of the revenue entries as the same lies in the domain of the revenue authority of the State of Rajasthan.



The subject matter of the dispute between the petitioner and the respondent is only with respect to the grant of permission for construction of building and, therefore, the respondent- Panchayat was not vested with the powers to raise the question or decide the same about the revenue entries and the title of the subject piece of land. The respondent - Gram Panchayat is well within their right to grant or not to grant the permission within the framework of the provisions of law.

In view of the discussions made above, the writ petition is allowed and the order dated 04.05.2018 passed by the Additional District Collector, Sirohi as well as interim order dated 23.06.2015 passed by Gram Panchayat, Mandar are quashed and set-aside. The respondent - Gram Panchayat, Mandar is directed to consider the application for raising construction submitted by the petitioner afresh within a period of eight weeks from the date of receipt of the application in accordance with law as per the existing revenue records placed before them.

It is also made clear that any construction activities undertaken by the petitioner will be subject to the outcome of the proceedings pending before the revenue authorities and the Board of Revenue. If the revenue suits are decided against the petitioner, the construction raised on the subject piece of land shall be used for the larger public interest of the villagers.

The stay application and other pending applications, if any also stand disposed of.

(VINIT KUMAR MATHUR),J

60-SunilS/-