

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

D.B. Civil Writ Petition No. 12774/2021

All Residents Of Ansal Sushant City, Bhakrasani, Jodhpur-342013 Through - 1. Tej Prakash Pathak S/o Late Sh. Ram Kailash Pathak, Aged- 47 Years, Resident Of D-226, Ansal Sushant City, Bhakrasani, Jodhpur (Rajasthan). 2. Prakash Kumar S/o Shri Binda Singh Aged- 39 Years, Resident Of House No. D-397-A, Ansal Sushant City, Bhakrasani, Jodhpur (Rajasthan).

----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary, Local Self Government Department, Govt. Of Rajasthan, Jaipur.
2. Secretary, Public Health And Engineering Department, Rajasthan, Jaipur.
3. Jodhpur Development Authority, Through Its Secretary, Jda Circle, Jodhpur.
4. Executive Engineer, Public Health And Engineering Department, City Division- Jodhpur.
5. Ansal Properties And Infrastructure Limited, Through Its General Manager (Projects), Local Office- Bhakrasani, Jodhpur.
6. The Managing Director, Star Facilities Management Limited, Local Office- Sushant City, Bhakrasani, Jodhpur.
7. Sushant City Residents Welfare Society, Through Its Secretary Sh. Nishchal Shrivastava, Resident Of D-372-373, Ansal Sushant City, Bhakrasani, Jodhpur.

----Respondents

Connected With

D.B. Civil Writ Petition No. 13083/2021

Sushant Lok Residents Welfare Society, Registered Address R-113, Sushant Lok Ansal Api, Pali Road, Jodhpur (Raj.) Pin Code 342013 Through Its President.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Urban Development And Housing Department, Secretariat, Jaipur (Raj.).
2. The Principal Secretary, Public Health Engineering Department, Jaipur (Raj.).
3. The Principal Secretary, Public Work Department, Secretariat, Jaipur (Raj.).
4. District Collector, District Jodhpur (Raj.).
5. Jodhpur Development Authority, Jodhpur (Raj.) Through Its Secretary.

6. Gram Panchayat, Balaji Nagar, Panchayat Samiti Luni, District Jodhpur (Raj.) Through Secretary.
7. Ansal Properties And Infrastructure Pvt. Ltd., Registered Address 115, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi, Pin Code 110001 Through Its Managing Director.
8. Jodhpur Vidhyut Vitran Nigam Ltd., Jodhpur, New Power House Road, Jodhpur, Through Its Secretary.

-----Respondents

For Petitioner(s)	:	Mr. Deen Dayal Chitlangi Mr. Sushil Bishnoi
For Respondent-JDA	:	Mr. Rajat Dave
For Respondent-State	:	Mr. Sandeep Shah, Sr. Adv. & AAG assisted by Mr. Abhimanyu Singh Rathore
For Respondent-Builder	:	Mr. Kuldeep Kumar Shah
For Respondent-JdVVNL	:	Mr. Anil Upadhyay
Officers of Departments	:	Dr. Haritima, Secretary, JDA Mr. Rajendra Mehta, S.E. PHED Mr. Mahendra Kirad, X.En, PHED

HON'BLE ACTING CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI

Order

14/12/2023

These petitions were taken up for hearing today.

2. In the background of submissions made on the earlier date regarding various difficulties in supplying water to the societies, the officers of different departments were also directed to remain present in the Court today so that they can assist the Court to find out a workable solution to ensure that the residents of the area

may not suffer on account of there being no water supply system installed by the PHED Department, Government of Rajasthan.

3. During the course of hearing and after considering the submission of learned counsel for the parties, so also the officers who are present in the Court, *prima facie* conclusion is that though the developer had deposited Rs. 2.4 Crore up to 13.03.2009 (in D.B. Civil Writ Petition No. 12774/2021) and Rs. 132.04 Lakhs up to 27.08.2010 (in D.B. Civil Writ Petition No. 13083/2021), for one reason or the other, this amount remained with JDA and was not transferred to PHED.

4. Learned counsel appearing for the State would submit that the aforesaid amount was never transferred to the State. Though learned counsel appearing for JDA does not dispute the fact that the amount was not transferred, he would say that there were certain reasons why it did not happen.

5. JDA, State and Developers, all have made allegations and counter allegations against each other, however, the fact remains that the amount, which was deposited with the JDA, was not transferred to the State as there is no reason for us to disbelieve the statement of learned Additional Advocate General that such amount was not received by PHED and, therefore, the single point water supply system could not be installed at that point of time. He has also made submission that in the meantime, the PHED had undertaken the installation of single point bulk water supply system in other colonies where the money was received and paid. The situation as it stands is that there is not enough supply capacity to cater to the needs of these two societies unless the water supply capacity is enhanced in future.

6. Learned Additional Advocate General would further submit that at present a project is going on to enhance and scale up the capacity of supply system which is likely to be completed in April, 2025. That means, PhED department would not be in a position to supply water to these two societies in near future.

7. At this stage, we are of the view that even if the money is directed to be transferred to State, the State does not appear to be in a position to install single point bulk water supply system to these two colonies developed by the builders.

8. Learned counsel for the petitioners submit that presently temporary arrangements are being made since years under which water is supplied to the petitioners-Societies through tankers of private suppliers on payment basis.

9. This is a very sorry state of affairs. Even though the developer had deposited huge amount with the JDA, for one reason or the other, the water supply system has not come into existence.

10. On the next date of hearing, this Court would be inclined to examine this aspect as to who was at fault for non payment of the amount with the PHED but *prima facie* it appears that JDA is at fault and did not deposit the amount laying with it to the PHED which resulted in the present situation.

11. We direct the Additional Chief Engineer, PHED to hold meeting with the Commissioner of JDA, Developers and the representatives of the registered Societies, within a period of one month from today and come with a workable solution to ensure installation of water supply system to these colonies and submit a

proposal before this Court so that a proper direction may be issued.

12. Taking into consideration the submission of learned Additional Advocate General that in addition to the estimates for the petitioners-Societies a comprehensive scheme is required to be prepared, as there are many nearby colonies (approximately 10 in number) where similar problem on account of absence of water supply system is prevailing, on the next date of hearing, Additional Chief Engineer, PHED would also place before the Court a comprehensive plan including the estimate for installation of water supply facility.

13. List these cases on 29.01.2024.

(RAJENDRA PRAKASH SONI),J

(MANINDRA MOHAN SHRIVASTAVA),ACJ