

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

S.B. Civil Writ Petition No. 6653/2014

1. LR's of Late Shri Narayan Singh:

1/1. Smt. Keeju Kanwar W/o Late Shri Narayan Singh, aged about 65 years, R/o Village Ramdeora, Tehsil Pokran, District Jaisalmer (Raj.).

1/2. Smt. Bhanwar Kanwar W/o Shri Kishan Singh, aged about 45 years, R/o Village Nosariya, Tehsil Dhungargarh, District Bikaner (Raj.).

1/3. Shri Bhanwar Singh S/o Late Shri Narayan Singh, aged about 42 years, R/o Village Ramdeora, Tehsil Pokran, District Jaisalmer (Raj.).

1/4. Smt. Parvati Kanwar W/o Bajrang Singh, aged about 38 years, R/o Village Nosariya, Tehsil Dhungargarh, District Bikaner (Raj.).

1/5. Smt. Chuka Kanwar W/o Mehghu Singh, aged about 35 years, R/o Village Aasrasir, Tehsil Sujangarh, District Churu (Raj.).

1/6. Shri Umed Singh S/o Late Shri Narayan Singh, aged about 30 years, R/o Village Bhamaas, Tehsil Ladnu, District Nagaur (Raj.).

2. Shyam Sunder S/o Shri Heera Lal, aged 53 years,

3. Kishan Lal S/o Shri Heera Lal, aged 63 years,

4. Panchu Singh S/o Shri Peer Dan Singh, aged 62 years,

5. Ganpat Ram S/o Shri Sona Ram, aged 43 years,

6. Bhera Ram S/o Shri Mangla Ram, aged 41 years,

7. Chatura Ram S/o Shri Babu Ram, aged 40 years,

8. Nathu Ram S/o Shri Ummeda Ram, aged 37 years,

9. Gumana Ram S/o Shri Khiyan Ram, aged 61 years.

10. Gopilal S/o Shri Savag Ram, aged 58 years.

11. Mangi Lal S/o Shri Bachala Ram, aged 51 years.

12. Nathuram S/o Shri Khakhu Ram, aged 43 years.

13. Amba Ram S/o Shri Utmaram, aged 58 years.

14. Kana Ram S/o Shri Amba Ram, aged 32 years.

15. Prakash S/o Shri Daulat Ram, aged 41 years.

16. Manaklal S/o Shri Deva Ram, aged 37 years.

17. Chain Singh S/o Shri Megh Singh, aged 51 years.

18. Bagta Ram S/o Shri Gorakh Ram, aged 42 years.

19. Nathu Ram S/o Shri Hukma Ram, aged 43 years.

20. Ghana Ram S/o Shri Dana Ram, aged 51 years.

21. Bhanwar Singh S/o Shri Nakhat Singh, aged 65 years.

22. Bhom Singh S/o Shri Bheru Singh, aged 33 years.

Petitioners No.2 to 22 are R/o Village Ramdeora, Tehsil Pokran, District Jaisalmer (Raj.).

----Petitioners

Versus

1. The State of Rajasthan through the Secretary, Panchayati Raj Department, Government of Rajasthan, Secretariat, Jaipur.

2. The Secretary, Gram Panchayat, Ramdeora, District Jaisalmer.

3. The Panchayat Samiti Sankra, Pokran, District Jaisalmer.

4. The Chief Executive Officer, Zila Parishad, District Jaisalmer.

-----Respondents

Connected With

S.B. Civil Writ Petition No. 6962/2017

1. Hathi Singh S/o Shri Kalyan Singh, B/c Rajput, R/o Ramdeora, District Jaisalmer (Raj.).
2. Bhera Ram S/o Shri Moola Ram, By Caste Rajput, R/o Ramdeora, District Jaisalmer (Raj.).

-----Petitioners

Versus

1. The State of Rajasthan through the Secretary, Panchayati Raj Department, Government of Rajasthan, Secretariat, Jaipur.
2. The Secretary, Gram Panchayat, Ramdeora.
3. The Panchayat Samiti Sankra, Tehsil Pokran, District Jaisalmer (Raj.).
4. The Chief Executive Officer, Zila Parishad, District Jaisalmer (Raj.).

-----Respondents

For Petitioner(s)	:	Mr. M.R. Singhvi, Senior Advocate, assisted by Mr. Hukam Singh
For Respondent(s)	:	Mr. Akhilesh Rajpurohit Mr. Manish Patel Mr. K.K. Bissa, AGC

JUSTICE DINESH MEHTA

Order

07/08/2019

**5th Stay Application No.11581/2019 in S.B. Civil Writ
Petition No. 6653/2014 and 3rd Stay Application
No.11579/2019 in S.B. Civil Writ Petition No. 6962/2017:**

The matter comes up on the Board, pursuant to the 5th stay application moved in SBCWP No.6653/2014 and 3rd stay application in SBCWP No.6962/2017. It has been stated in the applications that the respondents No.4 Zila Parishad, District Jaisalmer has initiated proceedings under Section 164 (4) of the

Rajasthan Panchayati Raj Rules of 1996 (hereinafter referred to as "the Rules of 1996"), on the ground that the petitioners have not deposited the due amount of rent.

Mr. M.R. Singhvi, learned Senior Advocate, appearing for the petitioners submits that the present writ petition had been filed in the year 2014, challenging the action of the Gram Panchayat, whereby they have sought to recover additional rent for the Mela period, over and above the monthly rent as fixed under Rule 164 of the Rules of 1996. The petitioners are having shops in the Gram Panchayat area and they are having legal tenancy governed by the Rules of 1996. The petitioners are paying monthly rent payable as per Rule 164, without any default, however, they are aggrieved of the action of the respondents, demanding additional rent for Mela period, which is not permissible under the Rules.

Learned Senior Advocate, invited attention of the Court towards various documents vide which the Gram Panchayat has not only demanded additional amount for the month of Mela, but such amount (Mela period rent) has been increased annually by 20%, even from the petitioners, who are having statutory tenancy in terms of the Rules of 1996.

Learned Senior Counsel submitted that every year, notwithstanding the pendency of the present petition, the respondent Gram Panchayat has been raising such demand every year, compelling the petitioners to file one stay application after another, but since no coercive steps have been taken so far, they did not insist upon passing of interim relief, but in the present factual and legal matrix, if appropriate protection is not given, the respondents will evict the petitioners.

Mr. Akhilesh Rajpurohit, learned counsel for the respondent Gram Panchayat vehemently argued that only 24 persons are before this Court out of 213 persons, and all of them have been paying the additional rent for Mela period without any protest and demur. He pointed out that even the petitioners have been paying rent upto the year 2014 and it is only in 2014, they have raised their objection, and have filed the present writ petitions. According to the respondents, the Gram Panchayat is required to incur huge expenses to provide facilities and amenities to the lacs of pilgrims who visit Ramdeora Temple during the Mela period, hence, demand of additional rent cannot be said to be illegal and arbitrary.

That apart, it has been argued by learned counsel for the respondents that the petitioners are having efficacious remedy available under Section 61, 92 and 97A of the Act of 1996; they ought to have availed such remedies, instead of approaching this Court.

Mr. Manish Patel, learned counsel appearing for the respondent Gram Panchayat Ramdeora submitted that the petitioners have filed the present 5th stay application in the advent of issuance of notice dated 26.07.2019, whereby the Chief Executive Officer, Zila Parishad, District Jaisalmer has issued notice under Section 164(4) of the Rules of 1996. If the petitioners have any grievance or material, they should show the same to the concerned authority instead of filing Vth and IIIrd stay applications in the respective writ petitions.

Mr. K.K. Bissa, learned Additional Govt. Counsel appearing for the respondent State had made general submissions and

inspite of the query raised by this Court, he could not point out any provision which authorizes the Gram Panchayat to demand additional rent, over and above the rent envisaged under Rule 164 of the Rules of 1996.

I have heard learned counsel for the parties and perused the material available on record.

Concededly, the petitioners are having tenancy right duly conferred by the respondent Gram Panchayat, in terms of the provisions contained in Rule 164 of the Rules of 1996. Rule 164 does not provide or envisage any additional rent for a part of the year, over and above the rent prescribed under such Rules, in any contingency.

It is true that there is a provision for annual enhancement after completion of three years' period, but such provision cannot be construed to mean that the Gram Panchayat has an unbridled or untethered power to demand additional rent for a particular period, in the guise of some Mela being managed by them.

In prima facie opinion of this Court, the demand of additional rent for Mela period is per se void and contrary to statutory provisions.

It is, therefore, deemed expedient and hence ordered that the respondent Panchayat Samiti shall not insist upon payment of additional rent during the Mela period. The demand notice(s) issued by the Chief Executive Officer, Zila Parishad, Jaisalmer shall not be insisted upon, if the petitioners show that due monthly rent as payable under Rule 164 of the Rules of 1996 has been paid.

During the course of the arguments, Mr. Singhvi, learned Senior Advocate submitted that though the petitioners have

offered rent to the respondent Gram Panchayat but they have refused to accept the same and insisted upon payment of arrears of rent for the Mela period, which they have not paid so far in wake of the pendency of the writ petition.

Hence it is ordered that during the pendency of the writ petition, the respondents shall not insist upon payment of additional rent for Mela period. The petitioners shall continue to pay statutory rent without any fail and the respondents shall accept the same, of course subject to usual increase contemplated by Rule 164. If any of the petitioner(s) fail to pay monthly rent payable under Rule 164 of the Rules of 1996, the respondents shall be free to take appropriate legal action against such petitioner(s).

With these observations both the stays applications are allowed. All the earlier stay applications (stay applications No.1 to 4 in S.B. Civil Writ Petition No.6653/2014 and the stay applications No.1 to 2 in S.B. Civil Writ Petition No.6962/2017) also stand disposed of in terms of the instant order.

Needless to observe that the present order shall be confined to only 24 petitioners involved in these two writ petitions.

List this case in the month of November, 2019.

(DINESH MEHTA),J