



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

S.B. Civil Writ Petition No. 24343/2025

Prahlad S/o Shri Ramlal, Aged About 62 Years, Resident Of
Village Kanera, Tehsil Nimbahera, District Chittorgarh.

-----Petitioner

Versus

1. The District Collector, Chittorgarh Through State Of Rajasthan.
2. The Officer In Charge, Revenue And Additional Collector (Land Acquisition), Chittorgarh.
3. Sub Divisional Officer, Nimbahera, District Chittorgarh.
4. The Tehsildar, Kanera, Chittorgarh.

-----Respondents

For Petitioner(s)	:	Mr. Sachin Saraswat
For Respondent(s)	:	Mr. Sanjay Raj Paliwal

HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

09/03/2026

1. Present writ petition is filed with following prayers:-

"1. Quash and set aside the impugned proceedings of allotment initiated by the Respondents in respect of the land comprising Khasra No. 521 admeasuring 2.63 hectares (land in question), including the proposal letter dated 03.11.2025 (Annex. 3) the checklist, and all consequential actions taken pursuant thereto.

2. Restrain the respondents from proceeding any further with the allotment of the land in question for the establishment of a college or for any other purpose, during the pendency of te petitioner's proceedings before the learned Additional Divisional Commissioner.

3. Any other appropriate writ, order or direction, which this Hon'ble Court may deem just and proper in the circumstances of the case, may kindly be passed in favour of the petitioner.

4. *The writ petition may kindly be allowed with costs throughout."*

2. Learned counsel for the petitioner, explaining the facts of the case, submitted that Khasra No. 521, admeasuring 2.63 hectares (the land in question), was recorded as '*Bilanaam*' and set apart in 2004 for the purpose of '*Chargarh*', and that the petitioner has been in continuous possession thereof for several decades, cultivating the same. Learned counsel relied upon a notice issued to the petitionessr under Section 91 of the Rajasthan Land Revenue Act, 1956 ("Act of 1956"), as well as some entries in the *Girdawari* and *Jamabandi* (Annex.-2).

2.1 Learned counsel for the petitioner further submitted that, despite the petitioner's continuous possession of the land in question, the respondents have initiated proceedings for its allotment under the Rajasthan Land (Allotment of Unoccupied Government Agricultural Lands for the Construction of Schools, Colleges, Dispensaries, Dharamshalas and Other Buildings of Public Utility) Rules, 1963 (the "Rules of 1963"). It was further stated that the respondents have commenced the process specifically for establishing a college thereon.

2.2 Learned counsel added that petitioner had already filed a second appeal under Section 76 of the Act of 1956 before the Revenue Appellate Authority ("RAA"), which is pending adjudication. Moreover, without granting the petitioner any opportunity of hearing, the respondents have proceeded with the allotment process under the Rules of 1963, thereby infringing upon the petitioner's rights.

3. *Per contra* learned counsel for the respondents, in their reply, submitted that the petitioner's possession over the land in

question is in the nature of a trespasser/encroacher, for which proceedings were initiated under Section 91 of the Act of 1956.

3.1 Explaining the background of prior litigation, learned counsel for the respondent added that vide order dated 09.06.2025, petitioner was found guilty of encroachment and penalties were imposed thereon. Afterwards, petitioner had preferred an appeal under Section 75 of the Act of 1956 against the eviction order dated 09.06.2025, which was rejected by the appellate authority vide order dated 08.10.2025; the petitioner thereafter filed a second appeal before RAA under Section 76 of the Act of 1956, which remains pending adjudication.

3.2 Learned counsel for the respondents further submitted that petitioner has already lost the proceedings initiated under Section 91 of the Act of 1956, and following the said orders, stands dispossessed from the land in question. Moreover, petitioner holds no title over the land nor is recorded as a *khatedar*/tenant thereof. It was also contended that, as an encroacher, the petitioner cannot oppose the allotment of government land under the provisions of the Rules of 1963.

4. Heard learned counsel for the parties and perused material available on record.

5. In light of the orders dated 09.06.2025 and 8.10.2025, and also considering the fact that petitioner does not hold any valid title over the land in question, this Court finds that petitioner's mere possession over the disputed land as a trespasser does not confer upon him any legal right or title whatsoever, much less a protectable interest therein against the true owner. Moreover, counsel for petitioner has candidly admitted that no

proceedings/application has ever been submitted or preferred by petitioner seeking allotment of the land in question in his favour.

5.1 It is a well-settled canon of law, that mere unlawful entry and wrongful possession by a trespasser or encroacher cannot ripen into a lawful claim, nor can it be elevated to the status of a right entitling the petitioner to any equitable relief.

5.2 The Hon'ble Apex Court in **Poona Ram v. Moti Ram, (2019) 11 SCC 309** held that casual acts of possession/trespass does not give right against the true owner of the said land. Relevant paragraph is reproduced herein below:

*"15. The crux of the matter is that a person who asserts possessory title over a particular property will have to show that he is under settled or established possession of the said property. **But merely stray or intermittent acts of trespass do not give such a right against the true owner.** Settled possession means such possession over the property which has existed for a sufficiently long period of time, and has been acquiesced to by the true owner. **A casual act of possession does not have the effect of interrupting the possession of the rightful owner. A stray act of trespass, or a possession which has not matured into settled possession, can be obstructed or removed by the true owner even by using necessary force.** Settled possession must be (i) effective, (ii) undisturbed, and (iii) to the knowledge of the owner or without any attempt at concealment by the trespasser. There cannot be a straitjacket formula to determine settled possession. Occupation of a property by a person as an agent or a servant acting at the instance of the owner will not amount to actual legal possession. The possession should contain an element of animus possidendi. The nature of possession of the trespasser is to be decided based on the facts and circumstances of each case."*

5.3 Thus, petitioner's mere possession over the said land as trespasser/encroacher does not create any enforceable right in his favour. Therefore, the present writ petition deserves to be dismissed on this ground alone.

6. Moreover, the petitioner having failed to establish any vested right of ownership or any lawful entitlement to the land in question, particularly when the same vests in the Government, cannot invoke this Court's extraordinary jurisdiction under Article 226 of the Constitution to perpetuate his illegal occupation. Such possession, being devoid of legal sanction, merits no protection.

6.1 The Hon'ble Apex Court in ***State of Orissa v. Madan Gopal Rungta, 1951 SCC 1024*** held that existence of a legal right is condition precedent for invoking writ jurisdiction under Article 226. The relevant paragraph is reproduced herein below:

*"13. The language of the article shows that the issuing of writs or directions by the Court is founded only on its decision that a right of the aggrieved party under Part III of the Constitution (fundamental rights) has been infringed. It can also issue writs or give similar directions for any other purpose. The concluding words of Article 226 have to be read in the context of what precedes the same. **Therefore, the existence of the rights is the foundation of the exercise of jurisdiction of the Court under this article.** The judgment of the Orissa High Court under appeal, however, shows that the Judges have decided nothing at all in respect of the rights of the parties....."*

7. Admittedly, State Government has initiated the process for grant and allotment of the disputed land for establishment of an educational college, which sub-serves the larger public interest and benefits community at large. The paramount public interest manifest in such a public utility project cannot be permitted to yield or take a back-seat to purported rights of a mere trespasser or encroacher.

7.1 Even otherwise, this Court exercises limited judicial interference in matters relating to public utility projects. This Hon'ble High Court in ***Gram Panchayat Arthuna v. State of Rajasthan, 2016 SCC OnLine Raj 7025*** held as follows:

"4. It is also clear from the record that at one point of time in the meeting of the Gram Sabha of Gram Panchayat, Arthuna held on 18.02.2016, a resolution was passed by the Gram Sabha, wherein recommendation was made for allotment of the land of Arajji No. 552 of village Lokiya for the purpose of construction of Panchayat Samiti Building of Panchayat Samiti, Arthuna. Though the petitioner has claimed that the resolution of the Gram Sabha has been rejected by the Gram Panchayat on the very day, but the learned counsel for the petitioner has failed to show any provision under the Rajasthan Panchayati Raj Act, 1994 and Rajasthan Panchayati Raj Rules, 1996 which empowers a Gram Panchayat to cancel any resolution passed by the Gram Sabha of a Gram Panchayat constituted under section 8A of the Act of 1994. **Otherwise also, the allotment of land for the purpose of construction of building of the public utility is the domain of the Government and its functionaries and until and unless it is demonstrated that there is flagrant violation of any provision of rules under which the allotment has been made or the same suffered from malafides, no interference can be called for in an administrative decision.**"

8. Therefore, the petitioner's possession over the disputed land, being that of a mere trespasser/encroacher, does not give rise to any vested right in his favour, much less any violation thereof warranting invocation of this Court's extraordinary jurisdiction under Article 226.

9. In view of the aforesaid discussion and settled principles of law, the present writ petition, is hereby, **dismissed**.

10. Stay petition and all pending applications, if any, also stand **disposed of**.

(SANJEET PUROHIT),J