

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 9497/2007

P N Maindola

-----Petitioner

Versus

State Of Raj And Ors

-----Respondent

Connected With

D.B. Civil Writ Petition No. 809/2008

M S Chodhary

-----Petitioner

Versus

State Of Raj And Ors

-----Respondent

D.B. Civil Writ Petition No. 15085/2011

Madhusudan Sharma

-----Petitioner

Versus

State Urban Development Ors

-----Respondent

D.B. Criminal Miscellaneous (Petition) No. 3737/2012

Banwari Lal Vijay

-----Petitioner

Versus

State Of Rajasthan Through Pp.

-----Respondent

D.B. Civil Writ Petition No. 15520/2012

Patel Nagar Grih Nirman

-----Petitioner

Versus

State Urban Developmentors

-----Respondent

D.B. Civil Writ Petition No. 16228/2012

Sheela Devi

-----Petitioner

Versus

Commissioner J D A And Anr

-----Respondent

D.B. Civil Writ Petition No. 16229/2012

Sushma Soni

-----Petitioner

Versus

Commissioner J D A And Anr

-----Respondent

D.B. Civil Writ Petition No. 16230/2012

Manju Devi

-----Petitioner

Versus

Commissioner J D A And Anr

-----Respondent

D.B. Civil Writ Petition No. 20356/2012

Brij Mohan Saini

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Civil Contempt Petition No. 699/2013

P N Maindola

-----Petitioner

Versus

C K Mathew And Others

-----Respondent

D.B. Civil Writ Petition No. 12202/2013

Manoj Sharma And Ors

-----Petitioner

Versus

Presiding Officer And Anr

-----Respondent

D.B. Civil Writ Petition No. 2799/2014

Smt Kiran Agrawal And Anr

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Civil Writ Petition No. 4936/2015

Swachch Nagar Sansthan Andanr

-----Petitioner

Versus

State Of Raj And Ors

-----Respondent

D.B. Special Appeal Writ No. 1276/2017

Shakeel Ahmad

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1860/2017

Mansoor Ali

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1861/2017

Guddo

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1862/2017

Jamil Ahmed

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1864/2017

Jarina Bano

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1865/2017

Guddo

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1866/2017

Subhaan Khan And Anr

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1867/2017

Shehnaaz

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Special Appeal Writ No. 1868/2017

Aleyamma K M

-----Petitioner

Versus

J D A And Ors

-----Respondent

D.B. Civil Writ Petition No. 9048/2017

Mohammed Javed

-----Petitioner

Versus

State Of Raj And Ors

-----Respondent

D.B. Civil Contempt Petition No. 356/2018

Kalu Ram And Anr

-----Petitioner

Versus

Mukesh Sharma And Ors

-----Respondent

D.B. Civil Contempt Petition No. 923/2018

Aleyamma K M And Ors

-----Petitioner

Versus

Vaibhav Galriya Commissioner Jda Andors

-----Respondent

D.B. Special Appeal Writ No. 1058/2018

Jaipur Development Authority

-----Petitioner

Versus

Shri Shayam Kunj Colonizers Pvt. Ltd.

-----Respondent

D.B. Special Appeal Writ No. 1145/2018

Jaipur Development Authority

-----Petitioner

Versus

M/s E.m.c.i.p.i. Infrastructure Pvt. Ltd.

-----Respondent

D.B. Civil Contempt Petition No. 1689/2018

R K Singh

-----Petitioner

Versus

Vaibhav Gulereya

-----Respondent

D.B. Civil Contempt Petition No. 1822/2018

Devendra Kumar Bader S/o Shri Harish Chandra Bader

-----Petitioner

Versus

Vaibhav Galriya

-----Respondent

For Petitioner(s)	:	Shri P.N. Maindola-petitioner in person, Shri Vimal Choudhary, Shri S.D. Khaspuria, Shri G.P. Sharma, Shri Madhav Mitra, Shri Gopal Singh Bareth, Shri Sanjay Joshi, Shri D.S. Poonia
For Respondent(s)	:	Shri Anil Mehta, AAG, Shri Virendra Lodha, Sr. Advocate with Shri Jai Lodha, Shri Amit Kuri, Shri Sheetanshu Sharma, Shri Ravi Chirania, Shri Ajatshatru Mina, Shri G.P. Kaushik & Shri Ajay Choudhary

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE GOVERDHAN BARDHAR

Order

05/04/2019

This Court on 26.11.2018 while referring the earlier order dated 26.2.2018 and 16.7.2018 passed an order directing the Revenue Department/Settlement Commission to co-relate the land comprised in khasra nos. of 1955 with the current khasra nos. and also tabulate the old khasra of the year 1955 with the new khasras so that the issue can be decided finally.

In the order dated 26.2.2018, reference was made to the earlier order dated 26.2.2015 asking the State Government to approach National Environmental Engineering Research Institute (NEERI) for a preliminary study. The State Government was directed to carry out a survey by satellite imaging of the entire stretch of the Dravyawati River and its banks by engaging a Government agency for satellite imaging. In the order dated 19.5.2015, the nature of the work carried out by NEERI and the necessary steps were enlisted. The Court then by order dated 11.12.2017, required the presence of the officers of the Revenue Department to ascertain as to through which khasra nos. Dravyawati River flows and which lands abutting the embankment are private lands and which lands belong to the Government. In the order of this Court dated 26.11.2018, reference is also made to the order dated 3.10.2006 passed by this Court at Principal Seat, Jodhpur in Abdul Rahman vs. State of Rajasthan & Ors.- 2004 (4) WLC (Raj.) 435 directing that all lands shown as drainage channels like nalla, rivers, tributaries etc. in the report on 15.8.1947 be declared as Government land and conversions made after 15.8.1947 be declared illegal.

In the order dated 26.11.2018, reference was also made to yet another order passed by a Bench of this Court dated 29.5.2012 directing the Water Resource Department to work as a Nodal Agency and it was observed that any allotment made out of the land of the aforesaid nature specified above would be in violation of Section 16 of the Rajasthan Tenancy Act. The Court then observed that the only way forward is to firstly access the Khatouni Bandobast (Jamabandi) of 1955, Milan Kshetraphal, Original (Mool) Survey Sheet and other related documents of 1955

regarding Dravyawati River originating from Nahargarh Hills and flowing towards Village Ralawata, Jaipur and superimpose the present position of the river on the Sajra Plan of 1955. The Settlement Commissioner was directed to prepare the aforesaid documents. The JDA, the Irrigation Department and the other concerned departments were directed to provide the required documents to the Settlement Commissioner.

When the matter was listed before the Court on 16.7.2018, the Court was informed that the process of preparing the necessary documents required by its earlier order dated 26.2.2018 is still going on. Record pertaining to 34 villages was to be prepared, but so far only 12 villages have been covered. When the matter was next listed before the Court on 20.8.2018, it was informed that the task directed to be undertaken vide order dated 26.2.2018 has been completed in respect of 4 more villages.

Now today Shri Anil Mehta, learned Additional Advocate General submits that direction of this Court in its order dated 26.11.2018 to the Revenue Department and the Settlement Commissioner for tabulating the old khasra nos. of the year 1955 to co-relate the land comprised in the present khasra nos. covering the settlement exercise undertaken in between so as to arrive at the definite conclusion with reference to the present khasra nos. has been completed in respect of 13 villages and that are yet to be completed in respect of 21 more villages including the aforementioned 16 villages in which only part exercise has been undertaken. He submits that it is a huge task and the Government would therefore require a minimum period of 6 weeks more to complete the task and, therefore, the hearing of the matter may be deferred for at least 6 weeks.

Shri P.N. Maindola, the petitioner present in person has submitted that JDA may in the meantime sell out the land on either side of the channel constructed on the land of Dravyawati River. If on the determination made by the Court after such an enormous exercise, the same is found to be recorded as land of the river bed or the nala, this would frustrate the very purpose of undertaking such an enormous exercise. The petitioner present in person further submitted that in the report of Survey of India, the width of the nala at certain places is 100 mtrs and at other places is 500 mtrs and plantation has been restricted.

Shri Amit Kuri, learned counsel appearing for the JDA submits that JDA does not intend to sell any land which is recorded as drainage channels like nalla, rivers, tributaries etc. in the records of 1955. It is also submitted that JDA is in the process of developing the walk way on either side of the newly built river channel and is also undertaking large scale plantation on either side. Learned counsel for the JDA further submitted that huge expenses have been incurred by the JDA in constructing the channel through the length of Dravyawati River, which is approximately 47.5 kms. He further submits that channel has been constructed with the permission of the Court in the width of 150 to 210 feet at different places.

Perusal of the order of this Court dated 16.11.2009 indicates that the Court on the suggestion made by the State Government directed that at present the width of the Amanishah Nala be maintained with minimum 150 feet and maximum upto 210 feet and the JDA may in the meantime may undertake exercise for recalling of the allotment if any encroachment has been made without maintaining the aforesaid width. This order was however

not intended to be determining the width of nalla/river. But the subsequent order passed on different dates, especially the orders referred to above by the Court indicates that exact width of the land recorded as channels like nalla, rivers, tributaries etc. cannot be ascertained until the Revenue Department assessed the Khatouni Bandobast (Jamabandi) of 1955, Milan Kshetraphal, Original (Mool) Survey Sheet and other related documents of 1955 showing the position that was existing in 1955 with regard to Dravyawati River originating from Nahargarh Hills and flowing towards Village Ralawata, Jaipur by superimposing the present position of the river on the Sajra Plan of 1955. That exercise has not been completed by the State Government till date. Therefore, the sale of any part of the land on either side at this premature state would create third party interest in the land which eventually may be found to have been recorded as the land of drainage channels like nalla, rivers, tributaries etc.

We therefore direct that till the dispute is resolved with regard to exact width is resolved, no part of the land on either side of the Nalla shall be alienated. It would, however, be open for the JDA to construct walk way and also undertake plantation on either side of the channel.

List the matter on 04.07.2019.

(GOVERDHAN BARDHAR),J

(MOHAMMAD RAFIQ),J