

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 8803/2023

Preeti Asawa W/o Amit Asawa

-----Petitioner

Versus

State Of Rajasthan & Ors.

-----Respondents

For Petitioner(s)	:	Mr. Swadeep Singh Hora Mr. Aman Garg
For Respondent(s)	:	Mr. Manoj Chaudhary for Mr. G.S. Gill, AAG Mr. Tushar Kumar Mr. Manasvi Tyagi

HON'BLE MR. JUSTICE ANUROOP SINGHI

Order

12/02/2026

A request for adjournment has been made by Mr. Manoj Chaudhary, Advocate appearing on behalf of Mr. G.S. Gill, learned Additional Advocate General, for some medical reasons.

However, Mr. G.S. Gill, learned AAG, is directed to file a specific affidavit with respect to the applicability and compliance of the directions issued by the Division Bench of this Court in the case of ***Gulab Kothari Vs. State of Rajasthan and Others*** in ***D.B. Civil Writ Petition (PIL) No.1554/2004*** dated 12.01.2017 at Principal Seat, Jodhpur, more particularly in para(s) No.139, 140 and 205 (xvi), and also taking note of the fact that even the larger bench, which was constituted in pursuance to the directions issued by Hon'ble Supreme Court, declined the prayer made for modification of the directions issued in para No.205 (xvi) in the judgment dated 12.01.2017, vide order dated 15.12.2018.

For ease and ready reference, the para(s) No.139, 140 and 205 (xvi) of **Gulab Kothari (supra)** dated 12.01.2017 read as under:-

"139. The sufferings of a common man on account of unplanned development in local authorities permitting the construction of multi-storey buildings in the existing residential colonies with the infrastructure developed, keeping in view the individual family units to be settled in the houses to be constructed is aptly expressed by two lines written by a legendary poet Shri Javed Akhtar :

**"ऊँची ईमारतों से मक़ां मेरा घिर गया,
कुछ लोग मेरे हिस्से का सूरज भी खा गये।"**

The urban development planning could be seen with three level hierarchy namely, Master Development Plan, Zonal Development Plans and plans for specific scheme. Obviously, when a scheme for developing a residential colony is framed and approved, the provision for requirement of infrastructure facilities including open spaces, parks, major roads and sub roads, traffic movement, the water supply, sewerage etc. is determined with the reference to number of family units/inhabitants to be settled in the houses to be constructed on the plots allotted. It goes without saying that the norms for infrastructure facilities for multi-storey building where the number of family units to be settled is much higher shall be different than the infrastructure facilities required for number of individual family units to be settled in the individual houses to be constructed as proposed in the scheme and therefore, if multi-storey buildings are permitted to be constructed in a residential colony developed with the infrastructure keeping in view the individual family units to be settled in the houses constructed, such unplanned development is bound to slide towards chaos, jeopardising the quality of life assured to the citizens deciding to settle in the residential colony to come up under the approved scheme. It cannot be disputed that the population growth and migration to the cities may necessitate vertical development i.e. construction of multi storey buildings but then, such development must conform to the basic objective of the planned development i.e. to ensure quality of life to the residents by preserving/creating the healthful environment. As a matter of fact, the citizens who while spending their hard earn money purchase a plot and decide to settle in a residential colony with projected infrastructure facilities as per the lay out plan duly approved, obviously acquire a right to avail the facilities assured and therefore, if

the same is permitted to be interfered with by indiscriminate, unplanned and uncontrolled development, they will feel cheated.

140. In this view of the matter, we are of the considered opinion that in the existing residential colonies which are developed with the infrastructure facilities keeping in view, the number of family units to be settled in such colonies, no multi storey buildings should be permitted to come up adversely affecting the rights of the citizens to live the quality of life assured to them.

...

205 (xvi) In the existing residential colonies which are developed with the infrastructure facilities keeping in view the number of family units to be settled in the houses to be constructed in such colonies, no multistorey buildings shall be permitted to come up adversely affecting the rights of the residents settled therein."

Para 53 of the Full Bench judgment dated 15.12.2018 reads as under:-

"53. Lastly, coming to the contention raised on behalf of Mr.Rajesh Joshi regarding the modifications of the directions issued by the Division Bench restraining the respondents from permitting construction of multi-storey buildings in the existing residential colonies, suffice it to say that the multi-storey buildings cannot be permitted to come up anywhere and everywhere so as to adversely affect the rights of the citizens who after spending their hard earned money constructed the houses and settled in a residential colony with projected infrastructure facility as per the layout plan duly approved. We are firmly of the opinion that while putting the interest of the residents of any residential colony or scheme already developed and implemented at stake, the Development Authorities/Local Authorities cannot be permitted to permit erection/re-erections of the buildings in such residential colonies just to further the interest and cause of developers and therefore, the prayer made for modification of the direction no.(xvi) issued by this court vide order dated 12.1.17 deserves to be declined."

The required affidavit be filed on or before the next date.

At this stage, Mr. Sarthak Rastogi, Advocate, appearing on behalf of respondents No.6 to 10 also seeks liberty to file affidavit with regard to the said directions issued by this Court.

The liberty as prayed for is granted.

List the matter on 05.03.2026 on top of the list.

(ANUROOP SINGHI),J

JAYANT KUMAR /02