

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 9464/2023

Additional Chief Engineer, Public Health Engineering Department,
Region-II, Gandhi Nagar, Jaipur

-----Petitioner

Versus

Bhagirath S/o Late Shri Lala & Ors.

-----Respondents

For Petitioner(s)	:	Ms. Mahi Yadav, AAG with Mr. Arun Kumar, AGC Ms. Archana
For Respondent(s)	:	Mr. Shyam Arya

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN
Order

09/07/2024

An application (IA No.1/2023) has been filed on behalf of the applicant-respondents for vacation of ex-parte interim order dated 10.07.2023.

Learned counsel for the respondents submits that a revenue suit (No.157/2008) was filed on behalf of the respondents before Sub Divisional Officer, Jaipur-II, Sanganer for correction of entries and permanent injunction under Sections 88, 89 & 188 of Rajasthan Tenancy Act. Vide order dated 29.06.2022, Sub Divisional Officer-II, decreed the suit in favour of respondents-appellants and Teshildar, Sanganer was directed to record Khasra No.123 measuring 0.29 hectare in the name of the respondents. Addition of Khasra No.123/1, near the entry No.122 in respondents' names was also directed to be done in the revenue map. He submits that the suit was decreed after providing opportunity of hearing to the Jaipur Development Authority as in the said revenue suit, JDA was Respondent No.1. Counsel further submits that in spite of the fact that land was not vested in the

Jaipur Development Authority, same was allotted to the petitioner Public Health Engineering Department vide allotment order dated 19.12.2018. He submits that an appeal was preferred by the respondents before the Appellate Tribunal Jaipur Development Authority. Vide order dated 19.4.2023, the appeal filed by the respondent was accepted and allotment made in favour of the petitioner by the Jaipur Development Authority on 19.12.2018 was cancelled.

Learned counsel appearing for petitioner submits that an appeal has already been preferred by the JDA against the judgment dated 29.06.2022 passed in the Revenue Suit in favour of the respondents.

Except typed copy of the appeal, no other proof has been submitted by the petitioner that the said appeal is pending. The perusal of the memo of appeal does not disclose the name of authority before whom, this appeal has been preferred as its name is not appearing in the memo of appeal. The first page of the appeal is the cropped up image and only Jaipur District, Jaipur is appearing therein.

Learned counsel for the petitioner submits that initially this land was acquired and same was vested in the JDA. It is also submitted when this land was allotted to the petitioner, no order was operating in favour of the respondent.

In view of the above facts and circumstances, I am of the considered view that Competent Court has passed judgment and decree in favour of the respondents and therefore, they cannot be deprived of the fruits of successful litigation, particularly when no interim order is operating against the judgment and decree dated



29.06.2022. Accordingly, application is allowed and the stay order dated 10.07.2023 is vacated.

List this case for final disposal on admission after eight weeks.

(ANIL KUMAR UPMAN),J

ANANDTANWAR/111