

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

S.B. Civil Writ Petition No. 8520 / 2017

Sita Ram Devanda And Anr

-----Petitioner

Versus

State Of Raj And Ors

-----Respondent

Connected With

S.B. Civil Contempt Petition No. 135 / 2008

Brijendra Singh

-----Petitioner

Versus

D C Samant

-----Respondent

For Petitioner(s) : Mr Rajendra Soni with Mr Hitesh Garg

For Respondent(s) : Mr Rajendra Prasad, Additional Advocate
General with Mr M Shiromani Sharma

Mr RP Garg

HON'BLE MR. JUSTICE M.N. BHANDARI

Order

13/11/2017

सत्यमेव जयते

The writ petition has been heard.

Learned counsel for private respondent – Mahesh Nagar Gopalpura Link Road Vyapar Mandal Vikas Samiti has raised issue about maintainability of the writ petition. It is submitted that, earlier, a similar litigation was decided by the Division Bench

followed by a contempt petition. In the light of the order passed therein, present writ petition would not be maintainable.

It is further submitted that the petitioners have approached the Division Bench at Principal Seat, Jodhpur in the case of "Gulab Kothari Versus State of Rajasthan & ors", DB Civil Writ Petition (PIL) No.1554/2004, decided on 12.1.2017 thus also, this petition is not maintainable.

Learned counsel for petitioners has contested the objections. He submits that petitioners are affected by the inaction on the part of the respondents causing traffic congestion thus present writ petition has been filed in their personal capacity. He has further submitted that in the earlier writ petition before the Division Bench, petitioners were not party and otherwise they are claiming relief pursuant to the Master Plan notified by the Jaipur Development Authority.

Learned counsel for private respondent submitted that their main contest to the petition is in regard to the alleged road between Mahesh Nagar to Gopalpura Bye-pass on the western side of the Railway line. No road has been proposed in the master plan.

In view of the above, it is necessary to first find out

whether there exist a road in the Master Plan between Mahesh Nagar to Gopalpura Bye-pass on western side of the Railway line.

The JDA is thus directed to file an affidavit in specific terms in regard to the Master Plan – 2011 and 2025 as to whether a road exist in the western side of the Railway line between Mahesh Nagar to Gopalpura Bye-pass and if it exist then width of the road. The affidavit would be in consonance to the master plan referred above. It is to first settle factual issue raised by the private respondent. It would also be clarified whether JDA has approved any part of the land of the road shown in the Master Plan and in dispute herein.

Learned counsel appearing for JDA would further clarify as to under what circumstances, construction could not be stopped if the land belongs to JDA or the government. If the Enforcement Wing of JDA has failed to perform at the relevant time, as to why action against them was not taken. The aforesaid is required because day and day out, we find that the land belonging to the government or the JDA is encroached and Enforcement Wing of the JDA remain as silent spectator though JDA is spending huge amount on the Enforcement Wing.

After submission of the aforesaid, the issue as to whether this writ petition can be heard by Single Bench in the light of the objections raised by learned counsel for private

respondents and also by learned Additional Advocate General, would be considered.

The affidavit, as directed above, be filed within a week.
List these cases on 23.11.2017 at 2.00 PM.

A copy of this order be supplied to Mr Rajendra Prasad, Additional Advocate General for compliance.

(M.N. BHANDARI)J.

bnsharma



सत्यमेव जयते