

S.B. CIVIL WRIT PETITION NO.3299/2005
Ibrahim vs. Nagar Parishad, Pali and others.

Date : 2.6.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. DC Sharma, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 1.5.2004 by which the petition filed in the name of Nemi Chand under Section 285 of the Rajasthan Municipalities Act (for short 'the Act') was dismissed by the Assistant Collector, Pali.

According to learned counsel for the petitioner, the petitioner was in possession of the land in dispute since last 35 years but that land was sold by the Municipal Council, Pali to others. The petitioner has challenged the action of the Municipal Council, Pali by filing petition through one Nemi Chand as power of attorney.

According to learned counsel for the petitioner, the Assistant Collector, Pali passed the interim order on 23.4.2003 by exercising power under Section 285 of the Act and thereafter, the matter should have been referred to the State Government for passing final order but the Assistant Collector on 1.5.2004 dismissed the petitioner's application filed under Section 285 of the Act.

According to learned counsel for the petitioner, the Assistant Collector had no jurisdiction to decide the matter after interim order dated 23.4.2003.

I have considered the submissions of learned counsel for the petitioner.

It is true that when a petition is filed under section 285 of the Act and it is decided by such authority to refer the matter to the State Government, then the State Government or the authority appointed by the State Government or the authority having delegated power may pass appropriate order but so far as whether to make a recommendation to the State Government or not to make a recommendation to the State Government is concerned, it was within the power of the Assistant Collector, Pali and since he has decided not to refer the matter by passing the impugned order, he has not acted without jurisdiction.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya