

S. B. Civil Writ Petition No. 5745/2011
Ravindra Kumar Sharma Vs. State of Raj. & Ors.

Dated : 29. 04. 2011

HON'BLE MR. JUSTICE MAHESH BHAGWATI

Mr. Arun Sharma, for the petitioner.

By way of the instant writ petition, the petitioner has sought the following reliefs:

(i) To quash and set-aside the orders dated 5. 2. 2011 passed by the Learned Civil Judge (Jr. Div.) Vijay Nagar, Ajmer and order dated 16. 3. 2011 passed by the Learned Additional District and Sessions Judge, Beawar.

(ii) to issue any other appropriate writ, order or direction to stay the construction of the computer centre at the present site of work till final decision of the suit filed by the petitioner.

(iii) to issue any other appropriate writ, order or direction as may be deemed just and proper in the facts and circumstances of the case in favour of the petitioner.

Adumbrated in brief the facts of the case are as under:

That one Computer centre is being constructed under Mahatma Gandhi National Employment Guarantee Scheme at 2km away from village Maukhampura for the benefits of the villagers. The petitioners filed a civil suit for permanent injunction as also an application under Order 39 Rules 1 & 2 of CPC imploring that the respondents may be restrained from

raising construction of computer centre at a place which is at the distance of 2km away from the village. The Learned trial Court having heard the Learned counsel for the parties dismissed the application of Order 39 Rule 1 & 2 of CPC. Aggrieved with the order dated 5th February, 2011, the petitioner preferred an appeal and that also stood dismissed by Additional District Judge Beawar (Ajmer) vide his order dated 16th March, 2011.

Learned counsel for the petitioner canvassed that the place where computer centre is being constructed is at the distance of 2km away from the village; and there are no inhabited houses of any villager nearby the centre. He also canvassed that the place was also not suitable as it was a low lying area which could immerse in water during heavy rains. It being a desolated place, there is every likelihood of the computers etc. being stolen. Learned counsel for the petitioner set forth all these arguments before the Learned trial Court but the Learned trial Court did not consider all these aspects. In case the Computer Centre is continued to be constructed there, it shall be a sheer misuse of Government money, hence, the writ petition be allowed.

Both the courts below are found to have critically analyzed the facts of the

case ad longum and both of them observed that no *prima facie* case was made out in favour of the petitioner. From the perusal of both the impugned orders, it is also found that this computer centre is not being constructed for the villagers of village Shikhrani only it is rather for the benefit of the villagers of Maukhampura, Rampura, Devpura, Bhukhardheda, Takarkheda also. Even the Gram Panchayat Shikhrani has also not been made a party in the civil suit. The impugned orders rendered by both the courts below are found to be just and proper. The High Court under Article 227 of the Constitution is required to invoke powers only when the impugned orders are found to have been passed for want of jurisdiction or suffer from legal infirmity or the finding given by the Court is found to be perverse. That is not the case in the instant petition. The writ petition is found to be totally devoid of any substance and the same deserves to be dismissed in limine.

For the reasons stated above, the writ petition being bereft of any merit stands dismissed.

(MAHESH BHAGWATI), J.

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