

In the High Court of Judicature for Rajasthan
at Jaipur Bench Jaipur

S. B. Civil Writ Petition No. 8505/2010
Arya Nagar Vikas Samiti
vs
UIT Alwar and ors

Date of Order : 31. 1. 2012

HON'BLE MS. JUSTICE BELA M. TRI VEDI

Mr. Ajay Goyal for the petitioner

By the Court:

1. Heard Learned counsel for the petitioner.
2. The petitioner (original plaintiff) has filed the suit in the representative capacity under Order 1 Rule 8 of CPC before the trial court for permanent injunction restraining the respondents (original defendants) from constructing any water tank in the Krishna Vatika park developed by the petitioner. The petitioner plaintiff had also moved an application seeking temporary injunction under Order 39 Rules 1 and 2 of CPC which was dismissed by the trial court vide order dated 3. 9. 2009. Being aggrieved of the said order, petitioner had filed an appeal before the appellate court, which was also dismissed vide order dated 9. 4. 2010 by the appellate

court. Being aggrieved of the same, the present petition has been filed under Article 227 of the Constitution of India.

3. It has been submitted by learned counsel for the petitioner that the entire park was developed by the petitioner-Samiti and respondents could not make any construction of the water tank in the said park. According to learned counsel for the petitioner, both the courts below have materially erred in not granting temporary injunction pending the suit in favour of the petitioner-plaintiff.

4. Having regard to the submissions made by learned counsel for the petitioner and to the impugned orders passed by the courts below, this court does not find any illegality or infirmity in the impugned orders calling for the interference of this court. It cannot be gainsaid that the supervisory jurisdiction under Article 227 of the Constitution of India should be exercised by the High Court sparingly and in appropriate cases only where there is gross failure of justice. In the facts and circumstances of the present case, there being concurrent findings of facts recorded

by the courts below, this court is not inclined to interfere with the same in absence of any gross injustice being pointed out by the petitioner.

5. In that view of the matter, the petition being devoid of merits deserves to be dismissed and is accordingly dismissed.

(BELA M. TRIVEDI) J.

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All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Om Prakash
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