

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

S.B. Civil Writ Petition No. 16663 / 2017

North East Colonizers LLP, D-83, Defense Colony, New Delhi
Through Its Authorized Representative Mr. Ramesh Kumar S/o Sh.
Sher Singh, R/o House No.121, Village Sureli, Tehsil Kosli, Distt.
Rewari (Haryana)

----Petitioner

Versus

1. State of Rajasthan Through the Collector, Alwar (Raj.)
2. Public Works Department, Government of Rajasthan, Sub-Division, Tijara, Distt. Alwar Through the Asstt. Engineer.
3. Gram Panchayat, Luhadera, Panchayat Samiti, Tijara, Distt. Alwar Through the Surpanch.

----Respondents

For Petitioner(s) : Mr. R.S. Mehta

HON'BLE MR. JUSTICE ALOK SHARMA

Judgment

22/09/2017

Effectively in this petition under Article 226 of the Constitution of India an injunction is sought against the respondents from constructing a road in the khatedari land of the petitioner situate in khasra no. 12 village Lohadera, Tehsil Tijara District Alwar.

From the material on record of the petition, it is evident that for the relief sought herein, the petitioner has already filed a suit for injunction under Section 188 of the Rajasthan Tenancy Act with in an application under Section 212 thereof before Sub Divisional Officer, Tijara, District Alwar to restrain the respondents from constructing a road through its khatedari land. The

application for interim injunction as per petitioner's own case, has been heard by SDO, Tijara, District Alwar on 11.7.2017, and the order thereon is awaited.

Mr. Mehta submitted that the petitioner has approached this Court for the exercise of its extraordinary jurisdiction despite having availed the alternate remedy, for reason of the failure of the SDO, Tijara, District Alwar to pass an order on the injunction application under Section 212 of the Rajasthan Tenancy Act, for the reasons of which the petitioner-Company is being rendered remediless and the respondents are in the process of running a road through its khatedari land.

Heard. Considered.

In view of the admitted fact that a suit for injunction has already been filed by the petitioner before SDO, Tijara, District Alwar for the same relief which has been sought in this petition, I am not inclined to entertain in this petition. To do so would be contrary to the rule against parallel remedies being allowed to be availed on the same cause of action. Aside of the aforesaid, the question as to whether the road under construction indeed runs through the khatedari land of the petitioner or not would be one of pure fact, which this Court cannot address in the exercise of its jurisdiction under Article 226 of the Constitution of India. It is not very difficult to visualize a potential dispute on the location of the land, over which the respondents seek to construct a road.

At this stage, Mr. Mehta seeks permission to withdraw the writ petition with a direction to SDO, Tijara to dispose of the petitioner-Company's application for interim injunction filed under

Section 212 of the Rajasthan Tenancy Act within a period of 7 days from today in view of arguments thereon already having been heard and even the written arguments having been submitted on 12.9.2017.

The prayer of Mr. Mehta is reasonable.

Resultantly, this petition is dismissed as withdrawn. However, SDO, Tijara, District Alwar is directed to dispose of the petitioner's application under Section 212 of the Rajasthan Tenancy Act filed within 7 working days from the date of presentation of certified copy of this order after hearing the contesting party. For compliance of this order, if necessary, the petitioner shall be free to move an application for preponement of the date fixed by the SDO, Tijara, District Alwar in the application for interim injunction filed by the petitioner.

(ALOK SHARMA) J.

Dk

