



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Writ Contempt No. 371/2016

Ravi Lodha

----Petitioner

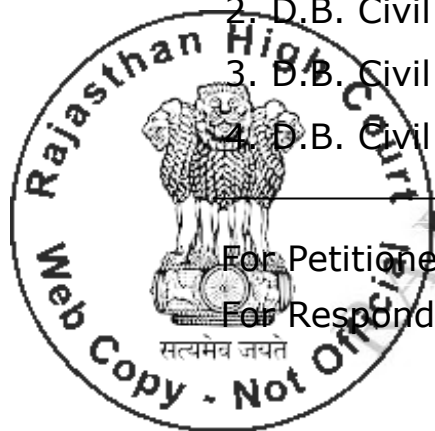
Versus

C.S. Rajan And Ors

----Respondent

Connected With

1. D.B. Civil Writ Petition No. 601/2019
2. D.B. Civil Writ Petition No. 5074/2019
3. D.B. Civil Writ Petition No. 3995/2020
4. D.B. Civil Writ Petition No. 5117/2020



For Petitioner(s)	:	Mr. Ashok Chhangani
For Respondent(s)	:	Mr. Sunil Beniwal, AAG Mr. Ankur Mathur Mr. Rajesh Panwar Mr. Govind Suthar for Mr. Manoj Bhandari Mr. Vinay Jain Mr. Rohitashva Tomar, Commissioner, Municipal Corporation (North) Mr. Dr. Amit Yadav, Commissioner, Municipal Corporation (South)

**HON'BLE MR. JUSTICE SANGEET LODHA
HON'BLE MR. JUSTICE RAMESHWAR VYAS**
Order

10/12/2020

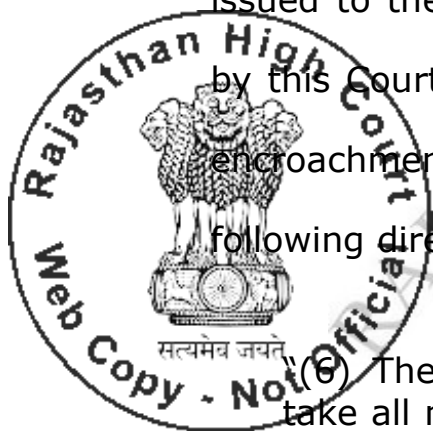
It is noticed that while disposing of D.B.Civil Writ Petition No.6073/93 vide order dated 19.2.07, this Court issued inter-alia following directions:

“(vi) All the authorities are directed to punctually and faithfully comply with the orders of this Court as to removing encroachments from the public places. The anti-encroachment and demolition programmes should be taken as a regular course and not as a drive only. Obstructions on roads in the form of poles, transformers, hoardings, cabins, installed some sort of structure to show place of worship of any religion, trees be shifted or removed. In case of removal of trees, same number of trees be planted at appropriate place. Encroachments on roads, particularly Pal Road,



as indicated above, be removed. In case of re-encroachment, matters be reported to the Court by way of initiation of contempt proceedings." (Emphasis Added).

The matter with regard to non compliance of the various directions was taken up by this Court in the present contempt petition and vide order dated 4.11.19, further directions were issued to the respondents for compliance of the directions issued by this Court vide order dated 19.2.07. Regarding the removal of encroachments made on footpath, pavement and public way, the following directions were issued :



- (6) The JDA, Jodhpur and MC, Jodhpur are directed to take all necessary measures to remove the encroachments made on the footpath, pavements and public way, by way of putting stairs, ramps, cabins, hoardings or fencing etc. in Jodhpur city within a period of three months from the date of this order,
- (7) The JDA, Jodhpur and MC, Jodhpur shall undertake the maintenance work of the city roads, pavements and footpaths, which are in dilapidated conditions forthwith and complete the same with utmost expedition, in any case, within a period of three months;"

On 9.12.2020, during the course of the hearing, it transpired that a new temple is being constructed on the land forming part of the footpath adjacent to the road from Arora circle to Pili Tanki, which terminates on Jodhpur-Pali road. While continuing the hearing on the issue regarding the compliance of the directions issued as aforesaid, the Commissioner, JDA, Jodhpur and Commissioner, Municipal Corporation (South), Jodhpur were directed to remain present before this Court.

Today, a Site Inspection Report accompanied by a few photographs is produced on behalf of the Municipal Corporation, Jodhpur (South), stating that Mr. Rohitashav Singh Tomar, Commissioner, Municipal Corporation, Jodhpur visited the site on



9.12.2020. He was informed by the persons present indulged in constructing the temple, that the new temple is being constructed in place of an existing temple which was constructed 50 years ago, which stands verified from the inscription on the beam of the demolished temple.

Indisputably, while issuing directions not to permit the new construction including the sort of structures showing the place of worship of any religion, the specific directions were issued by this Court to shift/ remove the existing structure. Thus, assuming for the sake of arguments, that some structure alleged to be place of worship was existing at the site, the question of permitting any such fresh structure on the footpath, public way or any other public place, does not arise. It is not disputed before us that the alleged structure on the footpath is coming up without obtaining permission from the Municipal Corporation, Jodhpur. Thus, the action of the respondents in not removing/shifting the existing religious structure existing on footpath, public way/street and permitting new structure of such nature coming up, amounts to gross disobedience of the directions issued by this Court.

We intended to issue notice to the Commissioner, Municipal Corporation, Jodhpur to show cause as to why he may not be punished for willful disobedience of the directions issued by this Court, however, Dr. Amit Yadav, Commissioner, Municipal Corporation, Jodhpur (South), present in person, submits that he has joined as Commissioner, Municipal Corporation, Jodhpur (South) only yesterday. He undertakes to ensure that no further construction of the temple is permitted to be raised at the site, the structure already raised shall be seized forthwith and it will be removed within a period of two weeks.



Keeping in view the undertaking given by the Municipal Corporation, Jodhpur (South), we refrain from issuing the notice as aforesaid for the present.

Let the matter be listed on 15.12.2020 for further hearing in respect of compliance of various directions issued by this Court, disobedience whereof is alleged in the present contempt petition.

The Commissioner, Municipal Corporation, Jodhpur (North) and the Commissioner, Municipal Corporation, Jodhpur (South) shall remain present before this Court on the next date of hearing.

APPLICATIONS No.8/20, 4/19 & 5/19

Mr. Vinay Jain, counsel for the applicants Lunaram & Ors. submits that it stands admitted by the State in reply that the land in question sought to be acquired for the purpose of construction of the Ring Road, is khatedari land of the applicants. Learned counsel submitted that keeping in view the public interest, he has already offered to the National Highway Authority to surrender his land on payment of adequate compensation. Learned counsel seeks time to place the application made in this regard on record.

Mr. Ankur Mathur, learned counsel appearing for the NHAI seeks some time to make submissions in regard to the application for impleadment preferred by Jairam & Ors. represented by learned counsel Mr. C.S.Kotwani, who had concluded his arguments on 9.12.2020.

List the matter on 15.12.2020.

(RAMESHWAR VYAS),J

(SANGEET LODHA),J

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