

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) .540/2009

GIRRAJ PRASAD & ORS.

APPELLANT(S)

VERSUS

STATE OF RAJASTHAN AND ORS.

RESPONDENT(S)

O R D E R

Panchayat Samiti, Bansur, under Pradhan Madan Lal Yadav, decided on 16.12.1995 to build shops on its premises. Pradhan Madan Lal Yadav received a vote of no confidence and was replaced by Pradhan Leela Ram Arya, under whom the construction of the shops was carried out. The appellants (shopkeepers) made advance payments to Panchayat Samiti towards construction and rent. Allegedly, 47 shops were illegally constructed and irregularly rented out. The complaint was initiated by Madan Lal Yadav, who prompted the respondents to investigate. The respondents filed a writ petition before the High Court inter alia praying for the demolition of the unauthorized shops. The said writ petition has been allowed by the High Court vide impugned judgment dated 24.02.2004 which is the subject matter of challenge in the present appeal. The appellants herein are the occupants of the said shops which are directed to be demolished. Admittedly, they were not made parties in the writ petition filed in the High Court. Leave to file special leave petition was granted by this Court. The main argument of the

appellants is that the impugned order is passed at their back without impleading them as parties and without giving an opportunity to present their case.

In these circumstances, normally one could have referred the matter back to the High Court to decide the case afresh after impleading the appellants as respondents in the said writ petition. However, this course of action may not be required in view of the order passed by this Court in I.A. Nos. 1-16/2011 in SLP(C) ... CC No. 8308/2011. Under the similar circumstances order passed by the High Court for demolition of unauthorised construction was not interfered with and dismissed by this Court. At the same time, those petitioners who had approached this Court were given an opportunity to present their case before the appropriate authority. The said order reads as under:

"Permission to file SLP is rejected.

We find no reason to interfere. The High Court has made it clear that the issue whether there is an encroachment or not, is yet to be decided and only if the structures are encroachments, they are to be removed. Therefore, the entire matter has to be examined by the concerned authorities.

Learned counsel for the petitioners submits that they have some documents to show that they are not encroachers. If so, it is open to them to show the appropriate authority the said documents so that it can decide whether there is an encroachment or not.

The special leave petition is dismissed."

In view of the above, this appeal is disposed of by giving an opportunity to the appellants to show to the appropriate authority

any documents, which are in their possession to demonstrate that they are not encroachers. The appellants shall do so within a period of six weeks. Appropriate decision on the question as to whether the appellants are encroachers or not would be taken by the authority within a period of six weeks thereafter. In case, the authority finds that the appellants or any other persons are encroachers upon the public land and/or their constructions are unauthorised, the authority shall be at liberty to remove these encroachments. Till the decision of the appropriate authority, the interim order passed by this Court shall continue.

.....J.
[A.K. SIKRI]

.....J.
[ASHOK BHUSHAN]

NEW DELHI;
JULY 12, 2017

ITEM NO.103

COURT NO.7

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 540/2009

GIRRAJ PRASAD & ORS.

Appellant(s)

VERSUS

STATE OF RAJASTHAN AND ORS. SECRETARY & ORS.

Respondent(s)

(FOR ON IA 1/2015)

Date : 12-07-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. S.K. Sinha, AOR
Mr. Rattan Lal, Adv.
Ms. Seema Kashyap, Adv.

For Respondent(s) Mr. P. K. Jain, AOR

Mr. S.S. Shamsbery, AAG
Mr. Amit Sharma, Adv.
Mr. Ankit Raj, Adv.
Mr. Milind Kumar, AOR

Mr. Avadh Bihari Kaushik, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of terms of the signed order.

Pending application(s), if any, stands disposed of
accordingly.

(ASHWANI KUMAR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)