

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

D.B. Civil Writ Petition (PIL) No. 11532/2017

Naresh Sharma S/o Shri Shriniwas Sharma, aged about 56 years, R/o Akhiraj Bagechi, Sharma Colony, Bikaner Raj.

-----Petitioner

Versus

1. The State of Rajasthan through the Principal Secretary, Urban Development & Housing Department, Jaipur Raj.
2. The District Collector, Bikaner.
3. The Urban Improvement Trust, Bikaner through its Secretary.
4. The Municipal Council, Bikaner through its Chief Executive Officer.

-----Respondents



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For Petitioner(s) : Mr. Sanjeet Purohit with Mr. Keshav Pareek  
Mr. Manoj Bohra

For Respondent(s) : Mr. Rajeev Purohit  
Mr. S.S. Ladrecha with Mr. Vikas Choudhary and Ms. Sonakshi Lohiya

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**HON'BLE THE CHIEF JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE DINESH MEHTA**

**Order**

**21/05/2019**

**I.A. No.3/2018 :**

1. The Court has heard learned counsel for the parties.
2. Learned counsel for the applicant submits that the applicant ought to be impleaded as a party as he is likely to be affected. In support, it is submitted that the applicant has been in possession since 1981 and that the Khatedar sold the land to him. The applicant cites continuous, peaceful and undisturbed possession of the land in his occupation since 1981. It is also urged that the area was declared as a *Kachhi Basti* and that some individuals were granted regularization.

3. This Court has considered the submissions. The public nature and character of land cannot be disputed. In terms of the judgment in *Gulab Khothari Vs. State of Rajasthan* [D.B. Civil Writ Petition No.1554/2004] decided on 12.01.2017, as further clarified by the judgment dated 15.12.2018, the persons/encroachers on public land, in any capacity, contravening the Master Plan have to be removed.

4. In these circumstances, the Court is of the opinion that there is no merit in the application.

5. The application is accordingly dismissed.

**Civil Writ Petition No. 11532/2017 :**

1. The Court has considered the previous order.
2. Learned counsel for the Urban Improvement Trust, Bikaner submits that encroachment removal drives could not be initiated on account of two or three compelling reasons. One, besides the absence of the Chairman of the Trust, it is also submitted that the State elections and later, the Central Parliamentary elections intervened which stalled the process of encroachment removal drives.
3. Besides relying on Annexure-F to the additional affidavit filed on 15.11.2018, it is submitted that some civil suits have been filed by persons claiming possession in which interim orders are made. Learned counsel submits that approximately 10 civil suits have been filed and interim orders made. The additional affidavit of UIT, Bikaner, itself states that as many as 58 encroachments occupied Public land in Sadulganj area at Bikaner. The additional affidavit annexed copies of photographs of the encroachees, showing the nature of encroachment.

4. The Court is of the opinion that despite the undertaking indicated by the Secretary of UIT, Bikaner that the encroachments would be removed within a short time frame, nothing has been done. The inaction is deplorable. In these circumstances, a direction is issued to the UIT, Bikaner to ensure that all encroachments are removed within four weeks. The Collector, Bikaner shall coordinate in the effort and liaise with the concerned police officers, fixing at least 3-4 alternative dates in the forthcoming weeks to undertake encroachment removal drives. It is clarified that the encroachment removal drive would be in respect of all occupiers except those who are in enjoyment of interim orders. It is also clarified that the Courts at Bikaner are hereby cautioned against granting any interim orders hereafter. A copy of the present order be marked to every Judge in Bikaner exercising jurisdiction of the Civil Court through the District Judge.

5. The Registry shall endorse a certified copy of this order in compliance with these directions.

6. An Action Taken Report shall be filed indicating the nature and extent of compliance with the present order by the Secretary, UIT, Bikaner, immediately after four weeks.

7. In case, these orders are not complied with, the present order shall be read as one initiating contempt proceedings against the Secretary, UIT, Bikaner.

**(DINESH MEHTA),J**

**(S. RAVINDRA BHAT),CJ**

25-Ramesh/-