

RAJASTHAN HIGH COURT

R.K. Das Gupta

Vs.

State of Rajasthan

Civil W.P. No. 1061 of 2000
(B.J. Shethna and Sunil Kumar Garg, JJ.)

11.10.2000

JUDGEMENT

Shethna, J.

1. Sri R.K. Das Gupta, President, Bikaner Bar Association addressed a letter dated 15-3-2000 to Hon'ble Justice Sri N.N. Mathur, Judge, Rajasthan High Court for making available the land of Farras Khana owned by the Public Works Department situated in Bikaner adjacent to the Court premises for the facility of Courts and advocates. It is stated in it that

"There is total dearth of building and space in the Court premises. Recently for two newly constituted Courts even the building could not be made available. Besides this other Courts are continuing in private building away from Court premises. There is dearth of space and building for advocates and litigants also . That advocate to the Court premises in this very area in the east of it a big plot of Farras Khan owned by P.W.D. is virtually vacant . It is not being used for any fruitful purpose.

That in the April, 1999 during the visit of Bikaner Hon'ble Chief Justice Sh. Shivraj V. Patil made the detailed inspection of this land of Farras Khana and after finding it appropriate for the extension of Courts etc. He directed Divisional Commissioner and Distt. Collector, who were present on spot, that this land should be made available for the facility of Courts, advocates etc.

That thereafter the Divisional Commissioner, Bikaner made correspondents with concerned Department of State Government for giving this 7 bigha of land to the judicial premises and he also endeavored for it.

That Divisional Commissioner has got the decision from the concerned

Department to give some part of land and building in exchange to P.W.D. out of the premises of State Woollen mill situated at Ganganagar Road, Bikaner.

But it has been learnt that at the final stage of this process this matter is pending before Secretary, P.W.D. Government of Rajasthan, Jaipur and respected Secretary is not in a position to take a positive attitude for relinquishing this land of farras Khana and matter is pending there."

2. On 10-4-2000, his Lordships Shri N.N. Mathur, J. made a note.

"Dy. Registrar (J).

"This may be treated as PIL and placed before the appropriate Bench."

3. Accordingly, this was treated as Public Interest Litigation and placed it for admission on 10-4-2000 before the Division Bench consisting of Hon'ble Mr. Rajesh Balia, J. and Hon'ble Mr. Mohd. Yamin, J. On that date, their Lordships ordered to issue notices and learned Advocate General Shri S.M. Mehta was directed to accept notices on behalf of the State and at his request, the matter was kept on 22 -5-2000. A copy of the petition was ordered to be given to him.

4. Somehow or the other, the matter could not be placed on 22-5-2000 and the same has been placed before us today.

5. This being an important matter, therefore, we requested Senior Advocate Mr. Mridul to assist the Court along with Shri S.D. Vyas, counsel appearing for the petitioner.

6. We have heard Mr. Mridul, for the petitioner and Sri S., Bhandawat, for the respondents-State.

7. The fact of the then Hon'ble Chief Justice Sri S.V. Patil of this Court visiting Bikaner in April, 1999 and directing the Divisional Commissioner and Dist. Collector to make the land available for Courts and advocates is not denied. In fact as per the direction of the then Hon'ble Chief Justice, at the time of spot inspection, the Divisional Commissioner, Bikaner entered into correspondence with the concerned Department of the State Government for giving 7 bighas of Farras Khana's land to the Dist. Judge, Bikaner. Not only that, the concerned Department also gave its consent to part with the land in exchange to P.W.D. In fact, the learned Counsel Shri S.

Bhandawat for the respondents has produced relevant correspondence regarding the same which is ordered to be taken on record.

8. After all these things, the matter should have been finalised, but it was submitted by learned Senior Advocate Mr. Mridul for the petitioner that because of the bureaucratic approach on the part of the Secretary at the top level of the Government, the matter has been unnecessarily delayed. He, therefore, submitted that this Court should have issued appropriate direction to the concerned Secretary to expedite the matter and take final decision in the matter as directed by the then Hon'ble Chief Justice of this Court in his administrative capacity.

9. This cannot be objected by Mr. S. Bhandawat, for the respondents and he has rightly not raised any objection to it.

10. It must be impressed upon one and all that whenever any suggestion is made by the Hon'ble Chief Justice of this Court on administrative side, the same must be respected and accepted in its letter and spirit. In fact, the recommendations made by the then Hon'ble Chief Justice of this Court way back in April, 1999 was immediately accepted by the Divisional Commissioner and the concerned Department, but only snag was at the Secretary level of PWD. It was accepted from the Secretary, PWD, State of Rajasthan, Jaipur to take positive attitude in the matter and take decision as early as possible. There is genuine grievance from the members of Bikaner Bar association. Time, and again this Court and the Hon'ble Supreme Court emphasized that all Courts should be at one place, which is in the interest not only for the judicial officers, but also in the interest of public at large. It was submitted by the learned Senior advocate Mr. Mridul and Mr. Vyas for the petitioner that there are already three courts outside the Dist. Court premises at Bikaner and two more Courts are newly constituted. If the Secretary, PWD had taken decision early in the matter, then hardships suffered by the Judges of the subordinate Courts, advocates and public at large, would have been minimized , but unfortunately because of the inaction on the part of the Secretary, PWD, the problem could not be solved.

11. Time and again grievance is made by the State Government and others that the Courts are interfering and trying to run the Government and administration , but it is only when there is failure on the part of the State Government, then only we have to interfere. In fact it was the duty of the Secretary concerned to take decision

immediately not only in this matter, but this type of many important matters pending before him.

12. At this stage, it was also submitted by learned Sr. Advocate Mr. Mridul that while directing the Secretary concerned to take decision immediately in the matter, the State Government may also be directed to take appropriate steps regarding construction of lawyer's chamber on self finance basis on the same line as it has been done in the Court premises at Jaipur and Jodhpur etc.

13. In view of the above discussion, this petition is allowed and the Secretary, PWD, Government of Rajasthan, Jaipur is directed to consider the matter objectively and take final decision in the matter as recommended by the then Hon'ble Chief Justice of this Court as early as possible and in any case not later than 31-12-2000 for relinquishing the land of Farras Khana to the Dist. Judge, Bikaner for the Court purposes. After the decision is taken, the State Government shall take immediate steps for construction of Court premises on the land in question and it shall see to it that the Court rooms are constructed on it as early as possible preferably by the end of Dec. 2001.

14. We also direct the State Government to take private steps in the matter, for construction of Lawyer's chambers on self finance basis on being approached by the Bikaner Bar Association.

15. With these observations, this petition is disposed of.

16. Before parting we must appropriate the valuable assistance rendered by the learned Sr. Advocate Mr. Mridul in the matter.

Order accordingly.