



**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

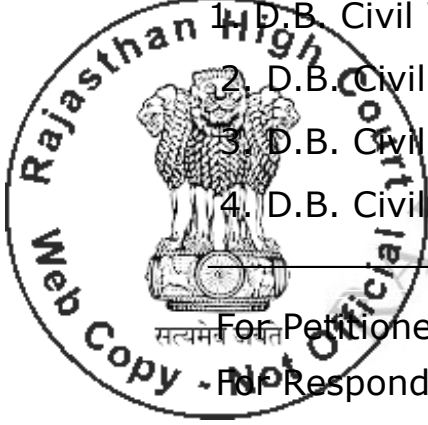
Connected With

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. Mukesh Rajpurohit

Mr. Sunil Beniwal, AAG

Mr. K.S.Rajpurohit, AAG

Mr. Ankur Mathur

Mr. Rajesh Panwar

Mr. Govind Suthar for Mr. Manoj  
Bhandari

Mr. C.S.Kotwani for applicant

Mr. G.R.Punia, Sr. Advocate with

Mr.Rajesh Punia for applicant

Mr. Rohitashva Tomar, Commissioner,  
Municipal Corporation, Jodhpur  
(North)

Dr. Amit Yadav, Commissioner,  
Municipal Corporation, Jodhpur  
(South)

(Through VC)

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

**Order**

**17/12/2020**

**APPLICATION NO.9/20**

The applicants Ambalal & Ors. have preferred an application for impleading them as party respondents to the writ petition.



The applicants claim to be residents of Bhagat Ki Kothi near Pili Tanki. The application is preferred for impleadment inasmuch as, the new religious structure being raised in place of the alleged old temple constructed in the year 1971, is sought to be removed by the JDA, Jodhpur pursuant to the undertaking given before this Court on 10.12.2020.

Learned counsel appearing for the applicants contended that new structure is being raised in place of the old temple existing at the site since 1971. It is submitted that keeping in view the widening of the road, the new structure of the temple is being raised in the area measuring 15x20 sq. ft. in place of the old structure measuring 23x23 sq. ft.

It is not the case of the applicants that they have any valid title over the land in question on which the religious structure is sought to be raised. Indisputably, the land on which the structure is sought to be raised forms part of footpath adjoining to the road from Arora Circle to Pili Tanki, which terminates on Jodhpur-Pali road.

As noticed by this Court while passing order dated 10.12.2020, vide order dated 19.2.2007 passed in Writ Petition No.6073/93, while issuing directions to the respondents not to permit the new construction including the sort of structures showing the place of worship of any religion, specific directions were issued by this Court to shift/remove the existing structure.

It is well settled that the footpaths and public roads are meant for convenience of public at large and no private person can be allowed to make unauthorised use of the same. As a matter of fact, every citizen has right to pass over the footpaths



and public ways and custody thereof with the State and the Local Authorities is in realm of public trust and therefore, what to say of private individuals even, the State Government and Local Authorities are yoked under an inhibition not to put any structure on footpaths and public ways, which is not necessary for regulating and maintaining the user thereof. Every inch of the land forming part of footpaths and public ways has to be preserved and maintained meticulously.

In this view of the matter, the applicants cannot be permitted to raise any structure over the land forming part of footpath when such existing structures on the footpath and public way are also directed to be removed/shifted by this Court. As a matter of fact, the Local Authorities are under an obligation to ensure that the land forming part of the footpaths and public ways are not encroached upon or put to unauthorised use in any manner whatsoever.

In view of the discussion above, no case for impleading the applicants as party respondents in the matter is made out.

The application is therefore, rejected.

### **APPLICATIONS NO.8/20, 4/19 & 5/19**

Let the applications be listed on 7.1.2021 for further submissions.

### **D.B. Writ Contempt No. 371/2016**

Mr. Rohitashva Tomar, Commissioner, Municipal Corporation, Jodhpur (North) and Dr. Amit Yadav, Commissioner, Municipal Corporation, Jodhpur (South), seek four weeks time to place on record the comprehensive time bound plan for compliance of the



directions issued by this Court vide order dated 19.2.2007 passed in D.B.C.Writ Petition No.6073/93 and subsequent thereto in the present contempt petition.

Time prayed for is allowed.

In the comprehensive plan to be submitted, the respondents authorities shall specifically incorporate the time bound action plan for removal of the encroachments made by unscrupulous persons on footpath, pavements and public way by way of putting stairs, ramps, cabins, hoardings or fencing etc. in various areas/roads of Jodhpur city. The authorities shall also incorporate the plan for removal/shifting of the religious structure of any nature raised on footpaths and public ways creating hindrance in smooth movement of the citizens.

Put up on 18.1.2021, as prayed.

**(RAMESHWAR VYAS),J**

**(SANGEET LODHA),J**

25to29-RP/-

