



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Contempt Petition No. 1135/2024

In

D.B. Civil Writ Petition (PIL) No. 4716/2022

1. Nekiram S/o Nemichand, R/o Nuniya Gothda Tehsil Chidawa District Jhunjhunu
2. Ranveersingh S/o Bhagwanaram, R/o Nuniya Gothda Tehsil Chidawa District Jhunjhunu
3. Balveer S/o Narayanram, R/o Ajeetpura Tehsil Chidawa District Jhunjhunu
4. Jan Kalyan Samiti, Mandrela, Tehsil Chidawa District Jhunjhunu Through Mantri Rishi Sharma.

----Petitioners

Versus

1. Shri Sudhanshu Pant, Chief Secretary Rajasthan, Secretariat, Jaipur
2. Shri Ramawtar Meena, District Collector Jhunjhunu
3. Shri Naresh Soni, Upkhand Adhikari Chidawa
4. Shri Kamaldeep Puniya, Tehsildar Chidawa
5. State of Rajasthan through Chief Secretary Rajasthan Secretariat, Jaipur

----Respondents

For Petitioner(s) : Mr. Ved Pal Shastri
For Respondent(s) : Mr. G.S. Gill, AAG with
Ms. Shikha Sharma for State
Mr. Anoop Pareek,
Mr. Kshitiz Sharma,
Mr. Mohit Balwada,
Mr. Sunil Shekhawat for applicants

**HON'BLE MR. JUSTICE SUDESH BANSAL
HON'BLE MR. JUSTICE SANDEEP TANEJA**

Order

08/01/2026

REPORTABLE

1. In the main Contempt Petition, petitioners alleged non-compliance of the judgment/ final order dated 23.05.2022 passed in D.B. Civil Writ Petition (PIL) No. 4716/2022, but after



submission of reply to the Contempt Petition and Additional Affidavit showing compliance, in the rejoinder, petitioners stated non-compliance of the orders dated 04.12.2023 and 10.03.2025 as well and prayed to ensure compliance of such orders.

2. During course of Contempt Petition, misc. application (1/2025) was filed by few applicants seeking impleadment, stating *inter alia*, that applicants are not encroachers over the pasture land, yet in the guise of seeking compliance of order dated 23.05.2022, for removal of encroachment over pasture land, their authorized construction and possession is being sought to be removed. This application was decided vide interim order dated 03.11.2025 and applicants were allowed to assist the Court as intervenors.

3. Another misc. application (2/2025) has been filed by and on behalf of 22 applicants, stating *inter alia*, that they have filed S.B. Civil Writ Petition No. 13399/2023 and S.B. Civil Writ Petition No. 11728/2023, challenging the eviction order and in such writ petitions, interim stay order is operating in their favour and writ petitions are pending, yet petitioners are trying to create pressure upon the respondents-authorities to demolish their construction and dispossess them from residential houses, hence, applicants be allowed to be impleaded and heard in the present contempt proceedings. This application is pending and has also been heard.

4. Heard learned counsels for respective parties and perused the record.

5. It appears that petitioners filed D.B. Civil Writ Petition (PIL) No. 4716/2022 raising a grievance that despite passing an eviction order dated 04.08.2021 by the Tehsildar in exercise of powers





under Section 91 of the Rajasthan Land Revenue Act, 1956 (hereinafter referred to as "the Act of 1956"), order has not been executed and encroachments from pasture and Government land have not been removed. In the writ petition, encroachment over the pasture land situated at Village Ajitpura having Survey Nos. 177, 184, 215, 245, 257, 388/188, 395/283, 396/284 and at Village Nunia Gothda, having Survey Nos. 11, 13, 159, 187 and 280 and encroachment over the land of *Gair Mumkin Kabristan* recorded in Revenue Record under Survey Nos. 24, 28, 35, 404/29 and 405/30 situated at Village Nunia Gothda, which is stated to be used as pasture land since Muslims left for Pakistan, were alleged.

6. It appears that the Hon'ble Division Bench of this Court, disposed of the Writ Petition (PIL) vide judgment/ final order dated 23.05.2022 with observation that if the order of eviction passed by the Tehsildar under Section 91 of the Act of 1956, has attained finality and has not been challenged and none of the persons affected has taken recourse to remedy of appeal and there is no interim order, it goes without saying that the order is required to be executed in accordance with Scheme of the Act.

7. A bare perusal of the judgment/ order dated 23.05.2022 goes to show that the order only talks about that if the eviction order has attained finality or no interim order operates against the eviction order, same is required to be executed in accordance with Scheme of the Act of 1956. The manner and procedure to execute the eviction order passed by the Tehsildar, in exercise of powers under Section 91 of the Act of 1956, is itself envisaged under Section 91 and for aid, the State Government has promulgated





Rajasthan Land Revenue (Eviction of Trespassers) Rules, 1975 in exercise of the powers conferred by Clause (xliv) of Sub Section (2) of Section 261. For ready reference, Section 91 of the Act is being reproduced hereunder:-

"91. Unauthorised occupation of Land - (1) Any person who occupies or continues to occupy any land without lawful monthly shall be regarded as a trespasser and may be summarily evicted there from by the Tehsildar at any time of his motion or upon the application of a local authority at whose disposal such land has been placed, and any crop standing, or any building or other construction erected. or anything deposited on such land shall, if not removed with in such reasonable time as the Tehsildar may from time to time fix for the purpose, be liable to be forfeited to the State and to be disposed of [in the case of any such crop, in the manner he thinks fit and in other cases] as the Collector may direct:

Provided that the Tehsildar may in lieu of ordering the forfeiture of any such building or other construction, order the demolition of the whole or any part thereof.

[(2) Such trespasser shall further be liable to pay, for 'each agricultural year during the whole or any part where of has been in such unauthorized occupation of the land, a penalty which may extend to fifty times the annual rent, or assessment, as the case may be, for the first act of trespass. In the case of each subsequent ad of trespass, he shall by the order of Tehsildar, be liable to commitment to civic person for a term which may extend to three months and to pay penalty to the extent as aforesaid. The amount of such penalty shall be recovered as an arrear of land revenue, and]

[(3) Where the trespasser ordered to be committed to civil prison under subsection (2) satisfies the Tehsildar by whom he is ordered to be committed to civil prison that he intends to present an appeal, the Tehsildar shall order that such trespasser be released on his own bond for such periods will afford him sufficient time present the appeal and obtain stay order from the Appellate Court and such order shall so long as he is so released on bond be deemed to be suspended]

(4) In any of the following cases, namely.-

(i) where the trespasser does neither vacate the land not make appearance in response to the notice issue under sub-section (3), or

(ii) where in response to such notice, the trespasser does not vacate the land and makes appearance but-

(a) does not show any such cause, or

(b) makes any representation which is rejected after such inquiry and hearing as may be necessary in the circumstances of the case, the Tehsildar shall, unless, in the case covered by clause (ii) the trespasser under-takes to vacate the land within a week's time- and vacates it whine such time order the removal of the trespasser from





such land and shall remove or depute any person, to remove him therefrom and take possession thereof; and if the Tehsildar or the person so deputed is opposed or impeded in taking possession of such land, the Tehsildar shall apply to a Magistrate having jurisdiction and such Magistrate shall enforce the surrender of the land to the Tehsildar.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Tehsildar may, in case any such land belongs to the category specified in clause (ii) of the proviso to Section 97, sell it, with the approval of the Sub-Divisional Officer, to the trespasser upon payment by him of the premium therefor at the rate fixed under Section 96 and applicable to such land in addition to the assessment and penalty recoverable from him under sub-section (2) in respect of the whole period of unlawful occupation

[(6) Notwithstanding anything contained in sub-section (2) -

- (a) whoever occupies any land without lawful authority or, having occupied such land before coming into force of the Rajasthan Land Revenue (Amendment) Act, 1992, fails to remove such occupation within fifteen days from the date of service of a notice in writing calling upon him to do so by the Tehsildar shall, on conviction, be punished with simple imprisonment which shall not be less than one month but which may extend to three years and with fine which may extend to twenty thousand rupees; and
- (b) whoever, being an employee of the State Government specifically entrusted by an order of the Collector in writing with the duty to stop or prevent an offence punishable under this sub-section willfully or knowingly neglects or deliberately omits to stop or prevent such offence, shall, on conviction, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees or with both :

Provided that, in the case of an offence under clause (a), the court may for any adequate or special reason to be mentioned in the judgment impose a sentence of imprisonment for a term of less than one month :

Provided also that no investigation of an offence under clause (a) of this sub section shall be made by an officer below the rank of a Deputy Superintendent of Police :

Provided further that no court shall take cognizance of an offence under clause (b) except with the previous sanction of the Collector.

Explanation - For the purpose of this sub-section, "Land" means

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- (i) a pasture land as defined in the Rajasthan Tenancy Act, 1955 (Act No. 3 of 1955); and
- (ii) land redefined in sub-clauses (iii) and (iv) of clause Ca) of Section 103 including land appurtenant to a public well, Nadi, Johad and Talab.]”





8. It is noteworthy that prior to filing of the present Contempt Petition, petitioners had preferred D.B. Civil Contempt Petition No. 927/2022, pleading non-compliance of the judgment/ final order dated 23.05.2022 and their previous Contempt Petition has been dismissed vide order dated 11.03.2024 with finding that at this stage, no case is made out for wilful disobedience by respondents of the order dated 23.05.2022, for initiating the contempt proceedings, however, petitioners were granted liberty to avail remedies in accordance with law for redressal of surviving grievance, after conclusion of the proceedings challenging the eviction order.

9. It is further noteworthy that the counsel for petitioners admits and does not dispute that the eviction order dated 04.08.2021, passed by the Tehsildar has been challenged by private persons, by means of filing various writ petitions being S.B. Civil Writ Petition No. 9608/2023, 11728/2023, 13399/2023 and 11914/2023 and proceedings on such writ petition, have not been concluded as much as interim stay order(s) for not demolishing the residential houses, are also operating and writ petitions are pending for adjudication/ consideration before the learned Single Judge of this High Court.

10. The contention of counsel for petitioners is that at least the respondents-authorities should comply with and execute the eviction order for removing the encroachment from the other part of pasture lands, leaving the area of residential houses on which interim stay order(s) passed by the learned Single Judge in Writ Petition are operating. Further contention of learned counsel for petitioners is that, at the time of dismissing the previous





Contempt Petition vide order dated 11.03.2024, the Court was under impression that an another stay order of maintaining *status quo* dated 27.07.2023 passed by the Sub Divisional Officer, Chirawa is also operating over the lands in question whereas indeed such stay order has been vacated and the Revenue Suit itself has been rejected by the SDO, Chirawa vide judgment dated 26.07.2024 under Order 7 Rule 11 CPC. Hence, now, there is no hurdle in executing the eviction order, for removal of encroachment other than residential houses against which interim stay order passed by learned Single Judge is still operating.

11. Learned counsel pointed out that during course of proceedings of previous Contempt Petition, an order dated 04.12.2023 was passed by the Coordinate Bench of this High Court whereunder directions were issued to respondents to take necessary steps against the encroachers in terms of final order dated 23.05.2022, if they are holding land beyond the area, stayed by the learned Single Judge. For ready reference, the portion of order dated 04.12.2023, Para No. 6 and 7 reads as under:-

"6. Further, prayer has been made that as per the interim order granted by learned Single Judge, the same only pertains to the residential area whereas, the land, much beyond the residential area, is under encroachment by several persons against which necessary steps have not been taken.

7. In view of the submissions made, it is expected from the respondents to take necessary steps in terms of the directions issued by the Division Bench and the encroachers, if they are holding land beyond the area stayed by learned Single Judge, they shall be dealt appropriately in terms of the directions issued by this Court."





12. Learned counsel for petitioners have further pointed out that in the present contempt proceedings vide interim order dated 26.09.2025, respondents were granted opportunity to submit report in compliance of the order dated 04.12.2023 and though pursuant thereto, an Additional Affidavit dated 14.10.2025 has been filed by the Sub Divisional Officer, Chirawa showing compliance of the eviction order/ directions of this Court, but that affidavit contains incorrect and incomplete averments and indeed only wired fencing have been removed, crops from the pasture land have not been removed and further, shops of Budhram and Mahendra Goswami which are in fact located in pasture land, but has wrongly been shown in their Khatedari; another encroacher Ram Singh has again started construction of his house after demolition by respondents and the entire encroachment from the pasture land has not been removed. Hence, contention of counsel for petitioners is that the respondents-authorities are guilty of non-compliance of the directions issued by this Court vide orders dated 23.05.2022 and 04.12.2023 and 26.09.2025 and as such they are liable to be punished for committing Contempt of Court.

In support thereof, counsel for petitioners has placed reliance on the judgment, delivered by the Full Bench of the Rajasthan High Court in case of **Jaiwant Rao & Ors. Vs. State of Rajasthan [AIR 1961 (Raj.) 250]**.

13. *Per contra*, learned Additional Advocate General, appearing for and on behalf of respondents- contemnors, humbly submits that the weapon of initiating contempt proceedings could not be used for execution of a decree or implementation of an order and the Court should not invoke the contempt jurisdiction where





alternative remedies are available to secure the execution of orders/ directions of which non-compliance have been alleged.

14. His further submission is that the entire encroachment except demolition/ removal of the residential houses, have been removed and compliance report in form of Additional Affidavit by the then SDO, Chirawa, Naresh Soni has been placed on record pursuant to the order dated 26.09.2025, hence, there is no disobedience on the part of respondents-State Authorities either of final order dated 23.05.2022 or of order dated 04.12.2023, what to say of deliberate and willful disobedience of such orders. His further submission is that the respondent-authorities have high regards for the Majesty of law and orders/ directions passed by the Hon'ble Courts and have always strived to ensure true and faithful compliance of the orders/ directions passed by the Hon'ble Court, however, even if any action of the respondents-authorities is found to be in contradiction to the final order dated 23.05.2022 or the other orders, same is not willful and deliberate and the same is bonafide, in good faith and in discharge of their official duties and respondents tender their unconditional apology for the same. The prayer of learned Additional Additional General is that initiation of the contempt proceedings, second time, for execution of the eviction order is *ex facie* misuse of the process of law, more so when the previous Contempt Petition of petitioners has already been dismissed on merits, therefore, petitioners be saddled with suitable cost, while dismissing their present second Contempt Petition.

15. We have gone through the compliance report. In the compliance report, reference of registering a PLPC Case No.





51/2022 in the present matter, has been given and it has been mentioned that in the meeting dated 30.12.2022, directions were issued to the concerned Authorities to ensure removal of encroachments from the Government land. It has further been mentioned that on the report of Patwari Halka, proceedings under Section 91 of the Act of 1956 were initiated against as many as 149 encroachers and eviction orders dated 04.08.2021 and 10.09.2021 were passed by the Tehsildar, Chirawa. It has been disclosed that out of 149 encroachers, 114 encroachers have filed writ petitions before the learned Single Bench of the Rajasthan High Court, challenging the eviction orders and interim orders restraining the respondents from demolishing the residential houses have been passed in such writ petitions, which are stated to be pending. Encroachments from 8038 Sq. Meter area out of total area of encroachment 11412 Sq. Meter have completely been removed. The details of name of encroachers and area of removal of their encroachment have been indicated in the compliance report and it has specifically been mentioned that only demolition of the residential houses have not been made on account of interim orders granted by the Hon'ble Single Bench, albeit, encroachments from the non-residential area have been removed.

16. It is worthy to notice that in the rejoinder, petitioners submitted that construction of shop of *Uppradhan*, godown of Budhram and shop of Mahendra have not been removed. In the compliance report, specific reply/ explanation to such factual matrix has been given, pointing out that shop of Sube Singh, father of *Uppradhan*, has been removed; some portion of shop of Budhram was identified as encroachment, which has been





removed. It has been stated that shop of Mahendra is located in his khatedari land. For non-removal of encroachment of Rajendra, it has been stated that his *bada* is constructed in his own khatedari land. We find that in view of submission of the compliance report and considering the details of facts of making compliance, it is not a case of flouting the order(s) & direction of this court. Compliance report may not be misconstrued as execution of eviction order. Hence, compliance report is accepted and same is taken on record.

17. During course of arguments, we asked the counsel for petitioners about the scheme of execution of eviction order(s) passed by the Tehsildar in exercise of jurisdiction under Section 91 of the Act of 1956 and in reply, counsel for petitioners does not dispute that the procedure of execution of the eviction order is provided in Section 91 itself, which is complete code in itself, in respect of ensuring removal of the unauthorized occupation from the pasture land/ Government land appurtenant to a public Well, *Nadi, Johar and Talab*.

18. It is apposite to refer the celebrated judgment of the Hon'ble Supreme Court delivered in case of **R.N. Dey & Ors. Vs. Bhagyabati Pramanik & Ors. [(2000) 4 SCC 400]**, which has been followed by the Supreme Court recently in case of **Urban Infrastructure Real Estate Fund Vs. Dharmesh S. Jain & Anr. [(2022) 6 SCC 662]**, while affirming the proposition of law, the Supreme Court held and observed as under:-

"This Court in the case of R.N. Dey V. Bhagyabati Pramanik (2000) 4 SCC 400 held that the weapon of initiating contempt proceedings could not be used for execution of a decree or implementation of an order. That is, a court should not invoke contempt jurisdiction, where alternate remedies are available to





secure the terms of an order. We are mindful of the fact that contempt proceedings should not be of the nature of 'execution proceedings in disguise.'"

19. We are mindful that the purpose of contempt jurisdiction is to uphold the Majesty of the Courts of law and indeed. Contempt is a matter, between the Court passing the order, of which contempt is alleged and the contemnor; questions as to executability of such order is a question which concerns the parties *inter se*. The power of Court to invoke contempt jurisdiction, does not, in any manner, adjudicate the rights of parties *inter se*. In the contempt proceedings, the Court does not adjudicate upon any claim between litigating parties. It is a matter between the Court and the contemnor and third parties cannot intervene. It is exercised in a summary manner in aid of the administration of justice and to uphold Majesty of law and dignity of the Courts.

20. It is an established principle of law that to hold a person guilty of civil contempt, willful disobedience is an indispensable requirement. The Hon'ble Supreme Court, after sailing through plethora of judgments recently in case of **Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor [(2023) 17 SCC 545]**, opined that the expression or word "Willful" means act or omission, which is done voluntarily or intentionally and with the specific intent to do something which the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say that bad purpose either to disobey or to disregard the law, which signifies deliberate action done with evil intent or with a bad motive or purpose.





21. We have noticed that even though Additional Affidavit submitted by the SDO, Chirawa as compliance report, has been countered by the petitioners giving out name of few private persons whose encroachment on the pasture land has not been removed, but according to respondents-contemnors, the area of residential houses has not been disturbed on account of operating the interim stay order in favour of persons, who have challenged the eviction orders before the learned Single Judge. We are of the considered opinion that while dealing with the Contempt Petition, the Court is not expected to conduct a roving inquiry and go beyond the scope of judgment/ order, which is alleged to be violated. Further, this principle should be applied with more sincerity, particularly, when disputed questions of facts are involved. The factual dispute, in respect of removal/ non-removal of the encroachment over the pasture land, existing herein, is indeed a complex question of fact, which need not be and cannot be adjudicated in the contempt proceedings. It is open for the petitioners or aggrieved person to pursue even that aspect in execution proceedings or such other proceedings as may be permissible in law.

22. As far as initiation of contempt proceedings against the respondent-State Authorities is concerned, that too by means of a second contempt after dismissal of the first Contempt Petition on merits vide order dated 11.03.2024, which has attained finality. We find that same is not proper and rather, this is not a fit case to initiate and proceed contempt proceedings against the respondents for ensuring execution of eviction order, which fell within the mandate of Section 91 of the Act of 1956. We deem it





appropriate to refer findings recorded by the Hon'ble Supreme Court recently in case of **Dr. U.N. Bora Vs. Assam Roller Floor**

Mills Association [(2022) 1 SCC 101], in Para No. 9, *ad infra*:-

"9. We do not wish to reiterate the aforesaid settled principle of law except by quoting the reasoned decision of this Court in *Hukum Chand Deswal v. Satish Raj Deswal*, 2020 SCC Online SC 438 wherein the celebrated judgment in *Ram Kishan v. Tarun Bajaj*, (2014) 16 SCC 204, has been quoted. The following paragraphs would govern the aforesaid principle:

"20. At the outset, we must advert to the contours delineated by this court for initiating civil contempt action in *Ram Kishan vs. Tarun Bajaj & Ors.* In paragraphs 11, 12 and 15 of the reported decision, this Court noted thus:

'11. The contempt jurisdiction conferred on to the law courts power to punish an offender for his wilful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither be fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to impose sentence for contempt on the authorities in exercise of the contempt jurisdiction on mere probabilities."

23. As far as reference of judgment of Full Bench of Rajasthan High Court, delivered in case of **Jaiwant Rao** (supra), counsel for petitioners have drawn attention of this Court to the following judicial precedent, which is emphasized therein:-

"It is a well recognised and salutary rule of practice that a single Judge is bound by the decision of a Bench of two or more judges and a Division Bench is bound by the decision of another Division Bench and he cannot ignore or disregard the earlier decision, unless





such decision has been overrules by a Full Bench or the Supreme Court. Subordinate Courts are bound by the decisions of the High Court and if single Judges make pronouncements inconsistent with those of a Division Bench in disregard of the rules of judicial precedents, they would create confusion in the minds of the subordinate judiciary. The salutary important of respecting judicial precedents which foster judicial traditions and help to provide a safe guide in a morass of confusion cannot be over emphasized."

24. In the present contempt proceedings that there is no issue at all of not following the judicial precedent as enunciated hereinabove, rather the issue is in respect of disobedience of the judgment/ final order dated 23.05.2022 and other orders dated 04.12.2023 and 10.03.2025. The first Contempt Petition initiated by and on behalf of petitioners has already been dismissed on merits with observation that no wilful disobedience of judgment/ final order 23.05.2022 was noticed. Interim order dated 04.12.2023 was also taken into consideration while dismissing first Contempt Petition. This Court, in this second contempt proceedings, is not reconsidering/reviewing the finding/ observations made by the Coordinate Bench while dismissing the first Contempt Petition. In addition, this Court too does not find any disobedience of order dated 04.12.2023, passed during proceedings of first Contempt Petition, rather the compliance of this order as per the order dated 10.03.2025 passed in furtherance to the directions dated 04.12.2023, has already been submitted. Thus, reliance placed by the counsel for petitioners on the judicial precedent enunciated above, is misplaced and does not render any assistance to the Court in the present contempt proceedings.





25. Thus, in our considered opinion, the present contempt proceedings have been pursued by the petitioners, arbitrarily and in utter misuse of contempt jurisdiction of the High Court and in the guise of alleging disobedience of the orders passed by this Court, petitioners virtually asked for execution of the eviction order, which is executable as per the prescribed manner and procedure mandated under Section 91 of the Act of 1956.

26. We find this second contempt petition is malafide and filed in utter misuse of process of law, and same is hereby dismissed with cost, which is quantified to Rs. 1 Lakh payable by the petitioners jointly in the state exchequer for use of maintenance of pasture and public lands.

27. Notices of contempt issued against respondents stand discharged.

28. In view of dismissal of Contempt Petition, misc. application (2/2025) for impleadment, has rendered infructuous, hence, same stands disposed of, accordingly.

29. Any other pending application(s), if any, also stand disposed of.

(SANDEEP TANEJA),J

(SUDESH BANSAL),J

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