

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

D.B. Spl. Appl. Writ No. 405/2023

1. Mangi Lal S/o Shri Kishna Ram, Aged About 47 Years, Village Jambheswar Nagar-Ii, Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.
2. Bhoja Ram S/o Shri Kistura Ram, Aged About 55 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
3. Neta Ram S/o Shri Khema Ram, Aged About 35 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
4. Fusa Ram S/o Shri Gordhan Ram, Aged About 60 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
5. Rewant Ram S/o Shri Kishna Ram, Aged About 56 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
6. Puna Ram S/o Shri Gordhan Ram, Aged About 58 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
7. Khiya Ram S/o Shri Gordhan Ram, Aged About 52 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
8. Luna Ram S/o Shri Kishna Ram, Aged About 51 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
9. Prema Ram S/o Shri Khema Ram, Aged About 34 Years, Village Ranjeet Nagar , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
10. Rugnath Ram S/o Shri Khema Ram, Aged About 36 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
11. Mohani Devi W/o Shri Bhagu Ram, Aged About 50 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , District Jodhpur , Rajasthan .
12. Bhagu Ram S/o Aalaniram, Aged About 52 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd , Tehsil Bap , - District Jodhpur , Rajasthan .

13. Jeevan Ram S/o Shri Durjaram, Aged About 59 Years, Village Jambheswar Nagar - Ii , Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.
14. Lachho Devi W/o Shri Jeevan Ram, Aged About 55 Years, Village Jambheswar Nagar - Ii, Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.
15. Ram Chandra Ram S/o Shri Baga Ram, Aged About 49 Years, Village Jambheswar Nagar - Ii, Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.
16. Baghta Ram S/o Shri Baga Ram, Aged About 51 Years, Village Jambheswar Nagar - Ii, Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.
17. Bhoma Ram S/o Baga Ram, Aged About 45 Years, Village Jambheswar Nagar - Ii, Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.
18. Binja Ram S/o Shri Phusa Ram, Aged About 55 Years, Village Jambheswar Nagar - Ii, Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.
19. Suva Devi W/o Shri Binja Ram, Aged About 50 Years, Village Jambheswar Nagar - Ii, Gram Panchayat Badi Sidd, Tehsil Bap, District Jodhpur, Rajasthan.

----Appellants

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Energy (Electricity And Power Supply), Rajasthan, Jaipur.
2. The District Collector, Jodhpur, Collector Office, Jodhpur, Rajasthan.
3. The Sub - Divisional Magistrate Bap, Sub Divisional Office, Bap, District Jodhpur, Rajasthan .
4. The Tehsildar ( Revenue/record ) Bap, Tehsil Office Bap, District Jodhpur, Rajasthan .
5. The Director, Rajasthan Renewable Energy Corporation Limited (Rrecl) E-166, Yudhistir Marg, C - Scheme, Ashok Jaipur, Rajasthan.
6. The Gram Panchayat Badi Sidd, Through Its Sarpanch Gram Panchayat Badi Sidd, Tehsil Bap District Jodhpur.

----Respondents

---

|                   |   |                                                              |
|-------------------|---|--------------------------------------------------------------|
| For Appellant(s)  | : | Mr. Vikas Balia, Sr. Advocate with<br>Mr. Hemant Balani.     |
| For Respondent(s) | : | Mr. M.S.Singhvi, A.G with<br>Mr. K.S.Lodha.<br>Mr. C.P.Soni. |

---

**HON'BLE MR. JUSTICE ARUN BHANSALI**  
**HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI**

**Order**

**01/06/2023**

1. It is submitted by learned Senior Counsel appearing for the appellants that the village Ranjeet Nagar and Jambheshwar Nagar-II were separated from village Badi Sidd vide notification dated 20/8/2008 and the public notice (Annex.2) and Notification (Annex.3) were published on 23/9/2021 and 26/10/2021, however, the names of said separated villages were not indicated in the said public notice and the notification, and, as such, insofar as the two villages are concerned, they are not covered by the said public notice and the notification, which led to the petitioners' inability to raise objection to the said notification and the action of the respondents in laying down transmission line through the said villages is *per se* illegal.

2. Further submissions have been made that the learned Single Judge has dismissed the writ petition mainly relying on the provisions of Section 20A and 41(ha) of the Specific Relief Act, 1963 and the judgment in *N.G.Projects Ltd. vs. M/s Vinod Kumar Jain & Ors. : Civil Appeal No. 1864/2022* decided on 11/3/2023 and *National High Speed Rail Corporation Ltd. vs. Montecarlo Ltd. : 2022 SCC Online SC 111*, whereas, the said provisions and

the judgments have no application to the present case as the said judgments arose out of the tender disputes and the present petition is based on the legal right of the petitioners under Article 300 A of the Constitution of India and, therefore, the judgment impugned being contrary to the facts and based on non-applicable law deserves interference.

3. Learned Advocate General appearing for the respondents vehemently opposed the submissions. It was submitted that the learned Single Judge has rightly dismissed the writ petition as the Court was of the opinion that the newly formed Ranjeet Nagar and Jambheshwar Nagar – II were part of village Badi Sidd prior to their formation and are still adjoining Badi Sidd and, therefore, the land situated in and around the vicinity of village Badi Sidd has always been the part of the proposed transmission system and the notification dated 23/9/2021 clearly provided that the line would be passing over through, around and between the villages indicated therein, wherein, village Badi Sidd was indicated, the plea raised in this regard has no substance and the findings recorded in the impugned judgment do not call for any interference.

4. Further submissions were made that the appellants-petitioners were well aware of the fact that the transmission line in question would be passing through the villages Ranjeet Nagar and Jambheshwar Nagar – II, which is reflected from the representation dated 23/10/2021 (Annex.11), wherein, it is clearly indicated that passing of the line through the said villages would cause financial and mental loss to them against which no challenge at that stage was laid/on the basis of purported non-

inclusion and the writ petition came to be filed after one year on 16/11/2022, which clearly reflects the malafides on the part of the appellants-petitioners.

5. It was vehemently submitted that out of the total length of the transmission line, entire route has been completed except the line passing through the villages Ranjeet Nagar and Jambheshwar Nagar-II, 06 towers in Bikaner District & 07 towers in Jodhpur District. Further the transmission line is to evacuate power generated by Nokh Solar Power of 925 MW out of which the power plant of 190 MW has already been completed and power is being generated by it. However, the same cannot be evacuated for want of completion of transmission line and as a result thereof the power generated is going waste.

6. Further submissions have been made that after the writ petition was dismissed by the learned Single Judge, the respondents have undertaken extensive work over the area in question, wherein, till 29/5/2023 out of the total of 47 towers excavation work has been completed with respect to 45 towers, foundation work has been completed with respect to 36 towers and a total of 09 towers have been erected upon completion of the first two stages of the process of installation of towers and, therefore, at this stage any interference/grant of interim order would result in irreparable loss to the respondents.

7. It was emphasized that the entire plea raised by the appellants-petitioners is that on account of erection of transmission line over the disputed area, the land which has been leased by the appellants to Garbia Solar Pvt. Ltd. for setting up solar plant would not be possible and the appellants would suffer financial loss. It is submitted that ultimately if the appeal filed by

the appellants is accepted, they can be compensated financially and, therefore, the stay application deserves dismissal.

8. Learned counsel for the appellants reiterated the submissions regarding villages being not covered by the public notice and notification and submitted that insofar as the fact that representation was made way back on 23/10/2021 and the petition was filed in November, 2021 is concerned, the SDO, to whom the representation was made, on 24/10/2021 (Annex.6) by way of meeting held between various parties including RRECL had noticed the aspect of loss likely to be caused to the petitioners and, therefore, they were justified in waiting for a positive decision and when nothing happened, the petition was filed and, as such, it cannot be claimed that there is any delay in filing the writ petition.

9. Having considered the submissions made by learned counsel for the parties and having perused the order dated 24/4/2023 passed by the leaned Single Judge, it is apparent that insofar as the two villages Ranjeet Nagar and Jambheshwar Nagar – II are concerned, they do not find mention in the public notice as well as the notification, which formed the basis for erection of transmission line. As to whether the said villages would fall within the indication made that transmission line will 'pass through, over, around and between the villages' named therein i.e. village Badi Sidd, as has been observed by the learned Single Judge, requires consideration.

10. Further, as to whether based on the provisions of Section 20A and 41(ha) of the Act, 1963 the parties can be non-suited

even where the plea raised pertains to legal right under Article 300 A of the Constitution of India also requires consideration.

11. In that view of the matter, issue notice.

12. As the respondents are duly represented, no need to issue fresh notice.

13. Heard on stay application.

14. Submissions made by learned Advocate General regarding appellants being aware of the land situated in villages Ranjeet Nagar and Jambheshwar Nagar – II being part of the transmissions line long back, appears to be justified looking to the representation dated 23/10/2021 made to the SDO, wherein, it is clearly contended that the transmission line is proposed to go-through Ranjeet Nagar and Jambheshwar Nagar – II and, therefore, filing of the petition after over one year, by which time the respondents had already proceeded well ahead in relation to erection of transmission line, was apparently delayed.

15. So far as the submission made that delay was caused on account of meeting held as reflected by (Annex.6) issued by the SDO is concerned, the said document is dated 24/10/2021 and, therefore, it cannot be said that the petition has been filed promptly/with justifiable delay from the date of document (Annex.6).

16. Further, the entire plea raised as reflected in the representation dated 23/10/2021 as well in the writ petition pertaining to petitioners having entered into the contract with companies for the purpose of setting up solar plants and that they would suffer financial loss on account of erection of transmission line over the land in question, in view of the nature of the said

plea raised, it cannot be said that the appellants cannot be adequately compensated, in case ultimately the appeal filed by them is allowed.

17. Further, as submitted, as the respondents since the dismissal of the writ petition, have already undertaken substantial work at the disputed site, grant of any injunction now at this stage wherein apparently the work of transmission line at other two ends of the disputed site is complete would apparently result in irreparable loss to the respondents due to their inability to transmit/evacuate the electricity generated, which cannot be stored.

18. In view of the above, no case for grant of interim relief restraining the respondents from undertaking the work of erection of transmission line at village Ranjeet Nagar and Jambheshwar Nagar – II is made out.

19. However, the work being undertaken by the respondents would remain subject to final outcome of the present appeal/orders to be passed therein.

20. List the appeal on 10/7/2023.

**(RAJENDRA PRAKASH SONI),J**

**(ARUN BHANSALI),J**