



HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR



S.B. Civil Writ Petition No. 19073/2024

1. Heera Lal Saini S/o Shri Jeevan Ram Siani, Aged About 44 Years, R/o Village And Post Geejgarh, Tehsil Sikrai, District Dausa (Rajasthan).
2. Ramkesh Saini S/o Shri Jagdish Prasad Saini, Aged About 29 Years, R/o Village And Post Geejgarh, Tehsil, Sikari, District Dausa (Raj).

-----Petitioners

Versus

1. State Of Rajasthan, Through Its Secretary, Rural Development Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Chief Executive Officer, Zila Parishad, Dausa.
3. Development Officer, Panchayat Samiti, Geejgarh, District Dausa.
4. Sarpanch Gram Panchayat Geejgarh, District Dausa
5. Village Development Officer, Gram Panchayat Geejgarh, District Dausa.

-----Respondents

For Petitioner(s) : Mr. Y.K. Sharma, Adv.
Mr. Arvind Kumar Arora, Adv.

For Respondent(s) : Mr. Kapil Prakash Mathur, AAG with
Mr. Sumit Purohit, Adv.
Mr. Pranay Sharma, Adv. &
Mr. Mahendra Pratap Singh, Adv.
Mr. M.S. Raghav, Adv. with
Mr. Vishivas Saini, Adv. &
Ms. Kirti Rathore, Adv.

HON'BLE MR. JUSTICE SANJEET PUROHIT

Reportable

Order

CONCLUSION OF ARGUMENTS : **03/11/2025**

RESERVED ON : **03/11/2025**

PRONOUNCED ON : **06/11/2025**

1. The present matter came up for consideration of the application filed under Article 226(3) of the Constitution of India for vacation of the interim order dated 19.12.2024.





2. At the request of counsel for the parties, the matter is taken up for final disposal.

3. The petitioners have preferred this writ petition *inter alia* praying for quashing of the Public Notice dated 06.12.2024, whereby the Shop Nos. A-2 to A-5 were put to auction to be given on rent by the Gram Panchayat, Geejgarh, Panchayat Samiti Sikrai, District Dausa (hereinafter referred to as "respondent - Gram Panchayat"), so also for a direction to be issued to the respondents to hand over the Shop Nos. A-2 & A-4 (hereinafter referred to as "shops in question") to the petitioners back on the same rent.

4. Counsel for the petitioners stated that the Shop Nos. A-4 & A-2 were given on rent by the respondent - Gram Panchayat since year 2001-02 and the petitioners duly paid rent to the respondent - Gram Panchayat.

4.1 On 06.02.2024, the respondent No. 4 by issuing a notice directed the petitioners to hand over the possession of the shops in question as the shops in question were in dilapidated condition requiring repair and maintenance. Direction was also given to make payment of due rent. It was mentioned in the notice, that after undertaking the repair work, the shops in question will be handed over back to the petitioners.

4.2 The petitioners stated that in pursuance of the said notice, the shops in question were handed over to the respondent - Gram Panchayat and repair work had already completed. However, respondent - Gram Panchayat instead of handing over the shops in question back to the petitioners, has issued impugned Public



Notice dated 06.12.2024 and proposed to give shops in question on rent through auction. Challenging the said public notice dated 06.12.2024, the present writ petition has been filed.

5. This Court while considering the statements made on behalf of the petitioners, has passed an interim order dated 19.12.2024 and stayed the auction of the subject shops in pursuance to the Public Notice dated 06.12.2024.

6. The respondents filed detailed reply and also filed application under Article 226(3) of the Constitution of India for vacation of the interim order dated 19.12.2024.

7. Representing the respondents, counsels Mr. Kapil Prakash Mathur, AAG as well as Mr. M.S. Raghav have vehemently submitted that the writ petition suffers from the vice of concealment of material facts. The petitioners have not come with clean hands before this Court as not only several material facts have not been disclosed but false averments have been made in the writ petition, just view a view to mislead the Court. The counsels stated that the following material facts were not disclosed by the petitioners.

7.1 It is argued that after initial notice dated 06.02.2024, several reminders on 20.02.2024 and 05.03.2024 were issued to the petitioners but the petitioners have never vacated the shops in question. However, the said fact has not been disclosed.

7.2 Counsel for the respondents submitted that the petitioners along with other shop holders have preferred civil suit challenging the notices issued by the respondent - Gram Panchayat. The competent civil court vide its Order dated 25.04.2024 has





dismissed the application filed under Order XXXIX Rule 1 & 2 of C.P.C. The Misc. Appeal under Order XLIII Rule 1(r) of C.P.C. filed on behalf of the petitioners, challenging the order dated 25.04.2024, was also dismissed by the court of Additional District Judge, Sikrai, District Dausa vide order dated 10.05.2024. The petitioners after availing another remedy and loosing the battle for getting the interim relief, has filed the present writ petition without disclosing the said fact.

7.3 While inviting the attention of this Court to Annexure-R/6 and Annexure-R/7, learned AAG Mr. Kapil Prakash Mathur, has stated that in Para 7 of the writ petition a false statement has been made that "relying on the version of the respondents, the petitioners vacated the shops in question for repairing purpose". As a matter of fact, the petitioners have not vacated the shops in question, inspite of several notices and the possession of the shops in question was taken by the respondent - Gram Panchayat with the help of the police as well as administrative authorities. The petitioners themselves have executed an undertaking that the petitioners have already received the goods/articles lying in the shops in question and have stated that no dispute now remains in between the petitioners and the Gram Panchayat, Geejgarh.

7.4 The counsel for the respondents have informed that as a matter of fact, the impugned public notice is second round of auction proceedings. As a matter of fact in pursuance of first auction notice dated 23.08.2024, brother of petitioner No. 1 as well as petitioner No. 2 himself have participated voluntarily and the bids submitted by them of Rs. 21,900/- (for Shop No. A-4)



and Rs. 20,600/- (for Shop No. A-2) were found highest and shops were allotted to them. Shockingly, brother of petitioner No. 1 as well as petitioner No. 2 have not deposited the requisite amount, which led to cancellation of auction proceedings. While highlighting the said fact the counsel for the respondents stated that the petitioner have frustrated the first auction proceedings by not depositing the bid amount and have got stayed the second auction proceedings by misleading this Court.

7.5 Counsel for the respondents also submitted that once the petitioners have participated in the earlier auction proceedings voluntarily without any protest, the petitioners are estopped from challenging the subsequent public notice for auction.

7.6 Counsel for the respondents submitted that the conduct of the petitioners has caused huge financial loss to the Gram Panchayat Geejgarh and the newly constructed shops are lying vacant as a consequence of the mischief played by the petitioners. The respondents prayed for dismissal of the writ petition with exemplary cost.

8. In response to the same, counsel for the petitioner submitted that the civil suit has been filed challenging the notices issued by the Gram Panchayat whereas the present writ petition has been filed challenging the subsequent public notice for auction, therefore, the fact regarding filing of the earlier civil suit is not relevant / material for the present writ petition. With regard to the participation in the earlier auction proceedings, it is contended that the petitioner No.1 has not participated in the same but his brother participated and since the bid rent was exorbitant



therefore, the amount in pursuance of auction proceedings was not deposited by the bidders. Counsel for the petitioner stated that as a matter of fact the entire action of the respondent – Gram Panchayat is without jurisdiction as the land in question belongs to Forest Department.

9. Heard learned counsel for the parties and perused the material available on record.

10. A perusal of the writ petition shows that the entire claim of the petitioner is based upon the premises that vide Notice dated 06.02.2024, the petitioners were called upon to vacate the rented shops, requiring urgent repair works with the understanding that the shops in question will be given back to the petitioners after completion of the repair work. The petitioners clearly pleaded in para 7 that in pursuance of the said notice dated 06.02.2024, the petitioners vacated the premises, however, respondents instead of handing over the shops in question back to the petitioners, have issued the notice of auction of shops on rent vide Public Notice dated 06.12.2024, which is challenged in the present writ petition.

10.1 This Court while relying upon the averements made in the writ petition, has passed the interim order dated 19.12.2024 and since then, the auction proceedings for the shops in question could not be proceeded further. The material available on record clearly shows that in pursuance of initial notice dated 06.02.2024 as well as even after issuance of reminder notices by the respondent - Gram Panchayat, the shops have not been vacated by the petitioners. In those compelling circumstances, respondent - Gram Panchayat had to resort to the police assistance and thereafter,



possession of the shops in question was taken by the respondent - Gram Panchayat. The said fact has not been disclosed, rather, the petitioners have dared to make a false averment in Para 7 of the writ petition that "relying upon the assurance of the respondent - Gram Panchayat, the petitioners have vacated the shops in question for repairing purpose". The falsity on the part of the petitioners is apparent on the face of record.

10.2 The factum of filing of civil suit, rejection of the application filed under Order XXXIX Rule 1 & 2 of C.P.C. as well as dismissal of appeal filed under Order XLIII Rule 1(r) of C.P.C. vide Order dated 10.05.2024 has also not been disclosed by the petitioners willfully. The petitioners have tried to justify that the suit was preferred against the eviction notice, whereas, the writ petition is preferred against the public notice for auction, therefore, the fact relating to the suit preferred against the eviction notice is neither material not relevant for the present writ petition. The said argument of the petitioners is absolutely baseless as the petitioners have also prayed that shops in question be handed over back to the petitioners on the same rent on the basis of assurance given in the initial notice for eviction. Therefore, it cannot be said that the proceedings of civil suit against the eviction notice is not relevant and a material fact for the purpose of present writ petition.

This Court is also of the opinion that the actions of the respondent - Gram Panchayat in issuing the notices for vacating the shops in question, for taking possession with the help of police authorities and thereafter issuing public notices for auction the



shops in question, are taken in a sequence and each subsequent action is a consequence of the later one. In such circumstances, the petitioners cannot be permitted to take different remedies before the different forums to challenge the action taken in a same sequence.

10.3 The documents Annexure-R/6 and Annexure-R/7 shows that after eviction, clear undertaking was given by the petitioners that they have already received the goods/articles lying in the shops in question and no dispute remained between the petitioners and the respondent - Gram Panchayat. The said conduct clearly shows voluntary acceptance on the part of the petitioners as the learned civil court has already rejected their application under XXXIX Rule 1 & 2 CPC. The said intention of the petitioners also fortified from the fact that the petitioners (in case of petitioner No. 1 – his brother) have voluntarily participated in the first auction proceedings, which shows the willingness on the part of the petitioners to take the shops on rent through auction. The challenge given in the present writ petition to the subsequent round of auction proceedings after voluntarily participating in the first round of auction proceedings is barred by the principle of estoppel. The challenge so given is also barred by the principle of waiver and acquiescence on the part of the petitioners.

The justification given by the petitioner No. 1 that he has not participated in the first round of auction proceedings but his brother has participated, is devoid of any substance. The facts of the case considered in a chronology clearly reveals that in the first round of auction, the petitioner No. 1 has not chosen to participate



in the auction and thereby, waived his claim to get the shop in question. In subsequent round of auction, the petitioner No. 1's brother has not chosen to participate the auction proceedings but the petitioner No. 1 has challenged the same by way of present writ petition. It is clear that the petitioner No. 1 and his brother were hand in gloves and the petitioner No.1's brother while acting on his behalf and in tandem with the petitioner No. 2 participated in the first auction proceedings, submitted the highest bid and later on, not deposited the bid amount just with a view to frustrate the auction proceedings.

These relevant facts having material bearing in the facts of the present case, have not been disclosed in the writ petition.

10.4 This Court agrees with the contention of the respondents that the actions of the petitioners has caused monetary loss to the respondent - Gram Panchayat. The petitioners with clear malafide intentions have participated in the first auction proceedings but even after being declared as successful bidders have not chosen to deposit the bid amount and due to the same, the auction proceedings, though, concluded had to be cancelled by the respondent - Gram Panchayat.

10.5 Counsel for the petitioners in rejoinder, has submitted that the land in question does not belong to the respondent - Gram Panchayat and the same is Forest land, therefore, entire proceedings are without jurisdiction.

Counsel for the respondents have vehemently objected the said arguments and have shown a certificate being issued by the concerned Patwari certifying that the land over which the shops in



question have been constructed, is the land of the respondent - Gram Panchayat itself.

This Court is of the clear opinion that the said argument of the petitioners is nothing but a desperate attempt to somehow prevent the respondent - Gram Panchayat to auction / allot the shops in question. The argument raised by the petitioners is apparently self-contradictory as the petitioners themselves stated that the shops in question were taken on rent by the petitioners from the Gram Panchayat Geejgarh. The petitioners also stated that since last 20 years, the petitioners were paying rent to the respondent - Gram Panchayat itself. The prayer is also made in the writ petition that direction be issued to Gram Panchayat to handover the shops in question, on the same rent to the petitioners. In these circumstances, the said argument of the petitioners is absolutely baseless and illogical.

11. The High Court functions not only as a court of law but also as a court of equity. Therefore, anyone seeking equitable relief under Article 226 of the Constitution is obligated to present all relevant facts before the Court fully and truthfully. The foremost condition for invoking the extraordinary jurisdiction of a Constitutional Court is that the petitioner must approach the Court with clean hands. Concealment or falsehood disqualifies a party not only from seeking equitable relief but also from being heard on the merits of the case. The foundation of writ jurisdiction lies in the disclosure of true, complete, and accurate facts. It is a well-established principle that if essential facts are suppressed, misrepresented, or presented dishonestly, the effective functioning



of writ courts would be undermined. Consequently, if a litigant fails to make full disclosure or attempts to mislead the Court, the Court is justified in dismissing the petition without examining its merits. This rule has been developed in the larger public interest to prevent unscrupulous litigants from misusing the judicial process through deception.

11.1 This view finds support from the various judgments delivered by the Hon'ble Apex Court denying indulgence to a party not approaching the Court with clean hands.

The Hon'ble Apex Court in the case of **Dalip Singh v. State of U.P., (2010) 2 SCC 114** has held as under :-

"1. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahimsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

In the case of **Tomorrowland Ltd. v. Housing & Urban Development Corpn. Ltd., (2025) 4 SCC 19**, the Hon'ble Supreme Court observed as under :-





"55. The material on record sufficiently indicates that the appellant did not approach the Court with clean hands and instead attempted to hoodwink the judicial process by creating a facade to subterfuge their inability to meet their contractual obligations. We are constrained to observe that the intent of the appellant throughout appears to be that of prolonging the litigation to cloak its impecuniousness.

56. It needs no emphasis that whosoever comes to the court claiming equity, must come with clean hands. The expression "clean hands" connotes that the suitor or the defendant have not concealed material facts from the court and there is no attempt by them to secure illegitimate gains. Any contrary conduct must warrant turning down relief to such a party, owing to it not acting in good faith and beguiling the court with a view to secure undue gain. A court of law cannot be the abettor of inequity by siding with the party approaching it with unclean hands. This also brings to mind the oft-quoted legal maxim—he who seeks equity must do equity."

Similarly, in a recent case i.e. **Auroville Foundation v.**

Natasha Storey, 2025 SCC OnLine SC 556, the Hon'ble Supreme Court has emphasized adherence to the doctrine of "clean hands" in following terms :-

"9. It is no more *res integra* that the Doctrine of "Clean hands and non-suppression of material facts" is applicable with full force to every proceedings before any judicial forum. The party invoking extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India must come with clean hands and disclose all correct and material facts in his Writ Petition. If it is brought to the notice of the Court that the petition has been guilty of suppression of material and relevant facts or has not come with clean hands, such conduct must be seriously viewed by the courts as the abuse of process of law and the petition must be dismissed on that ground alone without entering into the merits of the matter."

12. Considering the facts of the present case, it is clear that the concealment on the part of the petitioners is apparent on the face of the record and is writ large. The petitioners have not disclosed





the factum of reminder notices being issued by the respondent - Gram Panchayat and also the fact regarding challenge given to the eviction notices given by the petitioners by way of civil suit. The petitioners have also not mentioned the fact regarding rejection of the application filed under Order XXXIX Rule 1 and 2 of C.P.C. as well as dismissal of the appeal filed against said order.

Apart from the said concealment, the petitioners have patently made false statement that under the assurance of the respondent - Gram Panchayat, they have vacated the shops in question and while considering the same as a voluntary and bonafide vacation of shops by the petitioners, this Court has granted interim relief in favour of the petitioners. However, the record reveals that the possession of the shops in question was to be taken with the help of police authorities.

Apart from the said concealment, it is also borne out from the record of the case that the petitioners played clear mischief by participating in the earlier auction proceedings and not submitting the bid amount in spite of being declared as highest bidders, just with a view to frustrate the first auction proceedings. Said facts have not been voluntarily disclosed by the petitioners. Subsequent bid proceedings are challenged by the petitioners, which have been stayed by this Court while relying upon the false averments made in the writ petition. The cancellation of earlier bid proceedings where the petitioners themselves have submitted respective bid of rent to the tune of Rs. 21,900/- (for Shop No.A-4) and Rs.20,600/- (for Shop No. A-2), has caused financial losses to the respondent - Gram Panchayat. This Court strongly



deprecates and condemns such dubious and unscrupulous practices adopted by the petitioners. By engaging in conduct that amounts to a clear abuse of the process of law, the petitioners have not only caused financial loss to the Gram Panchayat but have also sought to misuse the judicial machinery for ulterior purposes. In view of their conduct, this Court finds it appropriate to saddle the petitioners with costs, so as to deter them and others from indulging in similar misuse of legal proceedings in the future.

12.1 The Hon'ble Apex Court in the case of **V. Chandrasekaran and Anr. Vs. Administrative Officer and Ors.** reported in **(2012) 12 SCC 133**, while dealing with similar circumstanced action has held as under :-

"44. The appellants have not approached the court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a court of equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said court not only with clean hands but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiore, means that it is a law of nature that one should not be enriched by causing loss or injury to another. (Vide Ramjas Foundation v. Union of India [MANU/SC/0117/1993 : 1992:INSC:308 : 1993 Supp (2) SCC 20 : AIR 1993 SC 852], Noorduiddin v. K.L. Anand [MANU/SC/0533/1995 : 1994:INSC:452 : (1995) 1 SCC 242] and Ramniklal N. Bhutta v. State of Maharashtra [MANU/SC/0279/1997 : 1996: INSC:1337 : (1997) 1 SCC 134 : AIR 1997 SC 1236].)

45. The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the court to subvert justice, for the reason that the court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and therefore, they are very often one and the same. A petition or an affidavit containing a



misleading and/or an inaccurate statement, only to achieve an ulterior purpose, amounts to an abuse of process of the Court."

13. In view of the discussion made above, looking to the conduct of the petitioners in the light of the law laid down by the Hon'ble Apex Court, the present writ petition is dismissed with a cost of Rs. 25,000/- to be deposited by each of the petitioners with the Rajasthan State Legal Services Authority, Jaipur, within 15 days from the date of this order. The receipt of such deposit be submitted with the Registry, to be tagged with the File.

14. Stay application and all pending application(s) also stand disposed of.

(SANJEET PUROHIT),J

INDER/