

CASE NO.:
Appeal (civil) 399 of 2008

PETITIONER:
Jagdish Prasad Chowdhary

RESPONDENT:
State of Rajasthan & Ors

DATE OF JUDGMENT: 11/01/2008

BENCH:
CJI K. G. Balakrishnan & R.V. Raveendran & J. M. Panchal

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO.399 OF 2008
(Arising out of SLP (Civil) No. 13190 of 2005)

Leave granted. Heard learned counsel for the parties.

In a writ petition filed as a Public Interest Litigation, the petitioner alleged that the public way to Mandir of Lord Khatushyamji in village Khatushyamji, Danta Ramgarh Tehsil, was encroached by shop keepers. The High Court entertained the writ petition and interim directions were issued from time to time monitoring the steps for maintaining the pathway free of encroachments. In fact, by an interim order dated 16.4.2004, the High Court directed the Collector, Sikar, to explore the possibility of having the shops constructed on the Road to the Mandir opened on the other side of the Road. In pursuance of the said order, the concerned Sub-Divisional Officer held a meeting with the shop keepers and made certain suggestions. The Report accepted the grievance of the appellant that the public path to the Mandir was narrowed considerably by reason of the shop keepers using part of the pathway.

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2. However, when the matter came up before another Division Bench on 25.2.2005, the writ petition was abruptly disposed of by a non-speaking order with the observation that no public interest was involved in the writ petition.

3. The learned counsel for the appellant rightly submitted that the High Court should have considered the contentions of the appellant and disposed of the same by a reasoned order. We are inclined to agree. In the factual background and the series of interim orders, the writ petition ought not to have been rejected by a non-speaking order, but should have been considered in detail.

4. We accordingly set aside the order dated 25.2.2005 in WP No.6799 of 2003 on the file of the Rajasthan High Court and remit the matter to the High Court with a request to dispose of the writ petition by a reasoned order, in accordance with law. All contentions including maintainability of the writ petition, is left open.