



CONSTITUTIONAL LAW

No Place for Illegal Occupations: Rajasthan High Court Reinforces Citizens Right to Safe Roads

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Introduction

Encroachments on public roads and pedestrian pathways have become one of the most persistent urban governance challenges in India. They choke traffic, endanger pedestrian safety, undermine city planning, and compromise the very purpose of public infrastructure. Despite clear zoning laws and repeated judicial interventions, unauthorized occupations continue to thrive often due to administrative indifference or complicity of local bodies.

In this backdrop, the Rajasthan High Court while hearing the case of *Vijay Kumar Boyat & Ors. Versus Vaibhav Galriya*^[1] arising out of a PIL filed in 2022, delivered strong directions against encroachments. The Court not only revived the pending PIL but also issued strict directions to ensure that illegal encroachments are identified, removed, and prevented in the future. The Court later, said that public roads and footpaths belong to the community at large and cannot be usurped by private interests and ordered state authorities to initiate a comprehensive statewide drive to remove illegal constructions.

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Background of the Case

The proceedings stem from a Public Interest Litigation (PIL) filed in 2022^[2] by Vijay Kumar Boyat and others, drawing attention to the rampant encroachments on public roads and highways leading into Jaipur city. The petitioners highlighted how unauthorized constructions were obstructing traffic, endangering pedestrians, and defeating the purpose of planned road infrastructure.

In response, the Rajasthan High Court had earlier issued directions to state authorities, including the Jaipur Development Authority (JDA) and the Urban Development & Housing Department, to ensure removal of such encroachments. However, continued inaction and non-compliance by the authorities led to the filing of a civil contempt petition in 2025.

During the contempt proceedings, an application was moved seeking the impleadment of an individual as a contemnor. The Court dismissed this request, clarifying that contempt is strictly a matter between the Court and the parties directed to act, and no third party can be added as a contemnor. Recognizing the persistent failure of enforcement, the Bench decided to revive the original PIL and issued fresh, stringent directions aimed at ensuring accountability and effective action against encroachments.

The Core Issue: Encroachments as a Threat to Public Spaces

Encroachments on public land, often beginning as makeshift stalls or temporary extensions, gradually transform into permanent structures that obstruct roads and footpaths. These illegal occupations not only endanger road safety and restrict pedestrian movement but also erode the efficiency of urban infrastructure. Despite repeated judicial pronouncements and clear urban planning regulations, the problem persists largely due to administrative inaction, political interference, and at times, complicity of officials.

The Rajasthan High Court has acknowledged that the menace of encroachments is not limited to Jaipur but extends across the state, affecting both highways and city pathways. In its order, the Court categorically held that **no pattas issued by local authorities, nor orders from any court, can validate such illegal encroachments**, as courts themselves cannot be seen to endorse illegality. By emphasizing that public interest must prevail over private encroachment, the Court reaffirmed the principle that roads and pedestrian pathways are meant for the community at large and must remain free of obstruction.

Judicial Observations

In its ruling, the Division Bench highlights that **public roads and footpaths are collective assets meant for the entire community** and cannot be claimed or occupied by private individuals. The judges made it clear that any assessment of encroachments must be carried out strictly in accordance with Master Plans and Zonal Development Plans, thereby eliminating the possibility of arbitrary or selective enforcement.

The Court further cautioned that the judicial process cannot be misused to shield or perpetuate illegal occupations. Objections based on pattas issued by local authorities or orders from lower forums cannot stand in the way of clearing encroachments, as no authority has the power to legitimize an illegality.

Reinforcing its position, the Bench also drew support from the Supreme Court's decision in *In Re: Manoj Tibrewal Akash*^[3], where the apex court stressed the urgent necessity of removing unauthorized structures from public spaces across the country in order to safeguard civic infrastructure and public rights.

Directions Issued by the Court

To tackle the persistent problem of encroachments, the Rajasthan High Court laid down a series of clear and enforceable directions:

- **Identification and Removal:** All encroachments on highways, major roads, and pedestrian pathways in Jaipur and across Rajasthan must be identified in line with the Master Plans and Zonal Development Plans, and subsequently removed.
- **Statewide Action:** The **Additional Chief Secretary, Urban Development & Housing Department**, was directed to ensure that municipal corporations and councils throughout the state initiate systematic anti-encroachment drives.
- **Zero Tolerance:** The Court categorically stated that no sympathy can be extended to encroachers. If it is found that government officials or police personnel facilitated or ignored such illegal occupations, they will face appropriate disciplinary action.
- **Due Process:** Encroachers are to be given **7–8 days notice** to voluntarily vacate the land. If they fail to comply, the encroachments will be demolished, and the cost of removal will be recovered from the encroachers themselves.
- **Accountability and Monitoring:** A detailed **compliance report** must be submitted by **07.10.2025**. On that date, senior officials, including the Head of the Enforcement Wing of JDA and enforcement chiefs of other development authorities, must appear before the Court to ensure personal accountability.

The Larger Urban Governance Challenge

The judgment brings into sharp focus a deeper governance dilemma how to manage rapid urban growth while safeguarding public spaces. Encroachments are not just isolated violations; they expose systemic weaknesses such as ineffective enforcement, inadequate monitoring, and at times, collusion between civic authorities and violators. These failures undermine city planning, compromise road safety, and erode public trust in governance.

By issuing statewide directions, the Court signalled that the problem cannot be addressed through piecemeal measures or city-specific actions alone. Instead, what is required is a uniform and accountable enforcement mechanism across Rajasthan, ensuring that public land remains protected and accessible for the common good.

Conclusion

The Rajasthan High Court's ruling delivers a clear and uncompromising message, **public spaces are inviolable and cannot be surrendered to private encroachment**. By placing community interest above individual claims and demanding accountability from state authorities, the Court has reaffirmed its role as a custodian of urban order.

Unchecked encroachments not only erode planned infrastructure but also endanger the constitutional right of citizens to safe and unhindered movement. This judgment highlights that sustainable urban development is possible only when planning laws are enforced with consistency and when encroachments are met with zero tolerance.

For more details, write to us at: contact@indialaw.in

[1] D.B. Civil Contempt Petition No. 378/2025

[2] D.B. Civil Writ Petition (P.I.L.) No.17971/2022

[3] Writ Petition (Civil) No.1294/2020

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