

(2007) 10 RAJ CK 0050

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1289 of 2002

Anant Shri Sukhramji Trust

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-10-2007

Acts Referred:

Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974 — Rule 17, 18, 19

Citation : (2008) 1 WLN 421

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Judgement

Govind Mathur, J.—This petition for writ is preferred to assail validity of the resolution dt. 06.03.2000 undertaken by Urban Improvement Trust, Bhilwara to allot a piece of land measuring 4400 square yards at the reserved rate of Rs. 500/- per square yard to Shri Shwetambar Sthanakwasi Pragya Jain Yuva Mandal, Bhilwara. Challenge is also given by the petitioner to the order dt. 07.09.2000 passed by the State Government to charge 10% of the reserved rate from the petitioner while making allotment of land aforesaid.

2. The orders impugned are challenged by the petitioner on various grounds including violation of provisions of Rules 17, 18 and 19 of the Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974 (hereinafter referred to as "the Rules of 1974"), the competence of the petitioner for getting allotment of land under the Rules of 1974 and also the preference required to be given to the petitioner while making allotment of land in question.

3. A detailed reply, rejoinder and sir-joinder are also part of the pleadings those require consideration in instant petition for writ.

4. From perusal of the pleadings it appears that there are so many complicated disputed questions of fact those cannot be settled in writ jurisdiction of this Court. It is also pertinent to note that the petitioner is having an efficacious alternative remedy to assail validity of the resolution dt. 06.03.2000 and all other

consequential orders making allotment of land in favour of respondent Shri Shwetambar Sthanakwasi Pragya Jain Yuva Mandal, Bhilwara by way of filing a revision petition under Rule 30 of the Rules of 1974 that reads as follows:

[30] Procedure to transfer can be stayed pending examination.--(1) The State Government for the purpose of satisfying itself as to the correctness legality or propriety of any transfer of land made under the provisions of these rules by auction or allotment by any Trust call for the relevant record and may while doing so direct that pending the examination of the matter, such transfer of land shall be withheld.

(2) If, after examining the record and after affording a reasonable opportunity of explanation to the parties concerned, the State Government is satisfied that the transfer of land by the Trust by auction or allotment is not in accordance with or is in contravention of these rules, may cancel or rescind wholly or in part any action or proceeding taken or contract entered into by the Trust regarding such transfer of land or may revise or modify the order or give any other direction as it may deem fit.

5. It is contended by counsel for the petitioner that the remedy prescribed under Rule 30 of the Rules of 1974 is not available to the petitioner as he has also given challenge to the order settling price of the land by State Government. As a matter of fact though the petitioner has given challenge to the order settling reserve price by the State Government also but that is nothing but an order consequential to the allotment of land by Urban Improvement Trust, Bhilwara and in the event the State Government while examining validity of the allotment takes any decision against the respondent allottee then no cause survive for the petitioner to challenge determination of rate of allotment. From the pleadings also it is apparent that the main cause of the petitioner is against the allotment of land and not regarding determination of the rates. The remedy provided under Rule 30 of the Rules of 1974, therefore, is an efficacious statutory alternative remedy available to the petitioner. I do not find any reason to entertain this petition for writ under Article 226 of the Constitution of India ignoring statutory alternative remedy available to the petitioner.

6. Thus, this petition for writ is dismissed with liberty to the petitioner to avail alternative remedy under the Rules of 1974.

7. No order to costs.