

(2018) 06 RAJ CK 0026

In the Rajasthan High Court

Case No : Special Appeal (Writ) No. 757 of 2018 In Civil Writ Petition No. 11662 of 2018

M/s. Boutique Hotels (India) Pvt. Ltd. @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 08-06-2018

Acts Referred:

Rajasthan Land Revenue Act, 1956 — Section 90B, 92

Citation : (2018) 06 RAJ CK 0026

Hon'ble Judges : MOHAMMAD RAFIQ, J;PANKAJ BHANDARI, J

Bench : Division Bench

Advocate : R.K. Agarwal, Shivangshu Naval, Shashash Shah, Archit Bohra

Final Decision : Dismissed

Judgement

This special appeal is directed against judgment dated 01.06.2018 passed by the learned Single Judge whereby the writ petition filed by the appellant

against order dated 10.05.2018 passed by the State Government revoking allotment letter dated 20.08.2011 and the order dated 10.05.2018 passed by

the Collector, Jaipur by which, the order of setting apart of the land in favour of the appellant for developing a tourism unit, was cancelled, has been

dismissed.Â

The learned Single Judge has declined to entertain the writ petition on the ground that the issue relating to the land in question leased out to M/s.

Boutique Hotels (India) Private Limited is under active consideration of the Apex Court as is apparent from various orders which were place on

record.Â It was further observed that if the appellant-petitioner has any grievance, they would be well advised to approach the Apex Court in the

pending proceedings and that this Court in the writ jurisdiction would have no jurisdiction to interfere with the proceedings which are already pending

before the Apex Court.Â Learned Single Judge has taken note of the earliest order dated 19.03.2012 passed by the Supreme Court and quoted part thereof wherein it was stated that, â??Since the land is required for the Forest Department, the State Government, as desired would take further action in accordance with law within one month from today.â? The subsequent order dated 11.04.2018 passed by the Supreme Court on an application filed by one Mohan Lal Sharma alleging that construction of hotel is sought to be made in a Wildlife Sanctuary, was also taken note of wherein it was observed that â??It appears that conversion of land has since been withdrawn by the State of Rajasthan vide order dated 28.06.2012 under Section 90-B of the Rajasthan Land Revenue Act, 1956 and proceedings have also been initiated for cancellation of lease but these proceedings are pending since 2012.â? The Supreme Court adjourned the matter to 11.05.2018 on the statement to the above effect made by the Additional Advocate General appearing for the State.Â

Mr. R. K. Agarwal, learned Senior Counsel appearing on behalf of the appellant submitted that the Supreme Court was not apprised of the correct facts.Â In fact, the land in dispute is own land of the appellant, which it purchased from the private khatedars and thereafter surrendered the same to the State Government to be eventually allotted back to it in accordance with provisions of Sections 90-B and 92 of the Rajasthan Land Revenue Act, 1956.Â It is contended that only land, which the Forest Department is claiming to be theirs, is comprising in Khasra No. 811/2, ad-measuring 2 bighas and 6 biswas, new Khasra number of which is 864.Â This parcel of the land is not part of the hotel land, with regard to which clarification has also been issued by the competent Government Officials.Â

We however find on record latest order passed by the Supreme Court on 11.05.2018 where again State Counsel prayed for and was granted two weeks time to place on record complete status report.Â It also appears from the impugned order that State is taking action in purported compliance of the orders passed by the Supreme Court. Earliest of such order was passed on 19.03.2012.Â The appellant has till date not taken any steps to approach the Supreme Court to represent itâ??s stand.Â If according to appellantâ??s perception, the correct facts have not been placed before the Supreme Court, it was always open to it to do so.Â In the facts of the case,

we do not find any error in the judgment passed by the learned Single Judge, requiring the appellant to approach the Supreme Court, which in view of various orders passed by the Supreme Court, would, in our view also, be the right recourse.Â

In view of above, instant special appeal is dismissed, however, with the aforesaid observations.

Stay Application No. 9613/2018 also stands dismissed.