
(1986) 08 RAJ CK 0039

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2167 of 1982

Prem Films

APPELLANT

Vs

Municipal Board and Others

RESPONDENT

Date of Decision : 14-08-1986

Acts Referred:

Rajasthan Land Revenue Act, 1956 — Section 91

Citation : (1986) WLN 398

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashok Kumar Mathur, J.—The petitioner by this writ petition has challenged the notice dated 29-10-1982 (Ex. 33) issued by the Municipal Council, Chittorgarh claiming arrears of rent.

2. The petitioner is a registered partnership firm and is carrying on the business of film distribution and exhibition in the name and style of M/s Prem Films. The U.I.T., Chittorgarh as it then was (which has been subsequently merged into the Municipal Board) issued an auction notice for auctioning a land for construction of a cinema house near Gandhinagar Project. The auction was held on 20-11-1976 and the petitioner being the highest bidder was allotted the land and he deposited a sum of Rs. 17,142 78 in the office of the UIT, Chittorgarh.

3. The petitioner submits that inspite of the case of the petitioner's bid and the depositing of the necessary amount by the petitioner the authorities did not execute a lease deed nor issued any orders. However, possession of the plot for construction of a cinema house was given to the petitioner on 15-1-1977. The petitioner insisted upon completing the formalities. However, meanwhile they have constructed the cinema and it was also inaugurated on 29-10-1978 and started exhibition of the films. Thereafter, the Municipal Council Chittorgarh asked the petitioner to deposit the arrears of rent. The same amount was

deposited by them. Thereafter it was not deposited and a plea was taken that the rent of the petitioner's cinema be determined in accordance with the provisions of Rajasthan Land Revenue (Allotment, Conversion and Regularisation of Agricultural Land for Construction of Cinema and Hotel and for Establishment of Petrol Pumps) Rules, 1978. In this connection it was also mentioned that the Tehsildar also issued a notice u/s 91 of the Rajasthan Land Revenue Act to the petitioner treating the present land to be an agricultural land and proceeded to decide this issue by the order dated 7-4-1980 (Ex.17). It was held by him that the petitioner is required to deposit the charges in terms of the Rules of 1978. This order was subsequently set aside by the Additional Collector and it was directed that the petitioner should deposit the amount of rent in terms of the auction notice. Now, the Municipal Council, Chittorgarh has issued a notice of demand Ex, 33 and directed the petitioner to deposit the amount of rent. This order is sought to be challenged by the petitioner by filing the present writ petition.

4. A return has been filed by the respondents and it has been pointed out that this piece of land was not an agricultural land. This was an urban land the same was auctioned by the then U.I.T which subsequently merged in the Municipal Council, Chittorgara and the petitioner was allotted the present piece of land for construction of a cinema house. He constructed the cinema and has not come forward for execution of the lease deed. As per the terms of auction lease deed was to be executed after the construction of the cinema. Since the U.I.T. is no more and the then U.I.T. has been merged with the Municipal Council, Chittorgarh therefore, the Municipal Council, Chittorgarh is entitled to receive rent from the petitioner in terms of auction notice. It was further submitted that the Rules of 1978 are not applicable in the case of the petitioner because the land was not an agricultural land. Therefore, rent has been rightly assessed by the Municipal Council and the same is being recovered from the petitioner under Chapter VIII of the Rajasthan Municipalities Act, 1959.

5. Learned counsel for the petitioner submitted that the Collector has no jurisdiction to declare the present land as an urban land. The submission of the learned Counsel appears to be misplaced. The land in question was auctioned by the UIT, Chittorgarh. This land was allotted to the petitioner for construction of a cinema house by the UIT and the petitioner accepted the same in terms of the auction notice Annx. R. 1. The petitioner cannot be permitted to now challenge that this is not an urban land and it is an agricultural land and the Rules of 1978 should be made applicable to him. The petitioner is estopped from doing so. He is bound by the terms and conditions of the auction as the same were accepted by the petitioner at the time of getting the land allotted for construction of a cinema. From the documents on record it clearly transpires that the land in question was in the town of Chittorgarh and a scheme was framed by the UIT as evident from Annx. R. 1. This was known as Gandhinagar Project. Thus, the land was auctioned by the UIT as an urban land and not as an agricultural land. The Collector has rightly held that the land in question was urban land and the

Tehsildar has wrongly proceeded on the basis of agricultural land and directed the petitioner to deposit the rent in terms of the 1978 Rules.

6. Secondly, it was urged by the learned Counsel for the petitioner that the petitioner's rent should be assessed in terms of the 1978 Rules and therefore the Municipal Council cannot issue this demand under Chapter VIII for recovering the amount of rent in respect of this land. This argument of the learned Counsel is also without any basis. As already held by me that the land in question is an urban land and therefore, the Rules of 1978 are not applicable. The Rules of 1978 are applicable to agricultural lands and if any agricultural land is sought to be converted and is being used for hotel or cinema then conversion charges have to be paid in accordance with the 1978 Rules. But in view of the fact that I agree with the finding arrived at by the Collector that the land in question is an urban land, therefore the Rules of 1978 are not applicable. This land was auctioned by the UIT, Chittorgarh, but the UIT has been merged with the Municipal Council. Therefore, the Municipalities Act is applicable and the Municipal Council can effect the recovery under Chapter VIII of the Municipalities Act in terms of the auction notice Annx. R. 1.

7. In this view of the matter, I do not find any substance in this writ petition and the same is dismissed.