
(2016) 01 AHC CK 0236

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 44068 of 2009

Rathi Dugapur Steels Ltd.

APPELLANT

Vs

U.P. State Industrial Dev. Corp. Ltd. and Others

RESPONDENT

Date of Decision : 05-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 ADJ 162

Hon'ble Judges : Arun Tandon and Harsh Kumar, JJ.

Bench : Division Bench

Advocate : B.C. Rai, for the Appellant; A.P. Singh, for the Respondent

Final Decision : Dismissed

Judgement

1. The Petitioner before this Court is a company duly registered and incorporated under the companies Act. The petitioner company made an application for allotment of an Industrial plot within the territorial limit of Industrial Area, Malwan, District Fatehpur with the UPSIDC. On that basis the company was allotted plot No. A-6 of Industrial Area, Malwan, District Fatehpur to the petitioner. The approximate area of the plot so allotted was 53441 sq. mts. and tentative price quoted was Rs. 59,98,112.50. The allotment letter is on record as Annexure 2 to the present petition. The details of the money to be deposited in instalment was also specifically provided for in the allotment letter under the head "Instalment Schedule".

2. In para 2 of the general conditions for allotment of plots, which is part of allotment application form it is mentioned that plots are to be allotted on "as it is where it is" basis and levelling etc. if necessary has to be undertaken by the allottee himself at his own expenses.

3. In paragraph 9 of the allotment letter, it has been specifically mentioned that, the plot has been allotted on "as it where it is" basis and levelling etc. if any, is to be undertaken by the allottee at his own expenses. It was further mentioned that

the possession of the land has to be taken within thirty days of the execution of the licence agreement and the lease-deed would be executed only upon the satisfaction of the conditions mentioned therein.

4. There is nothing on record to establish that the petitioner complied with the requirements of deposit of the instalments as per the schedule enclosed to the allotment letter. On record there is a letter of UPSIDC dated 28.2.2009 informing the petitioner that he has not complied with the conditions of the allotment letter and it appears that he was not interested in setting up of an industrial unit at the plot allotted. The petitioner was called upon to do the needful within 7 days of the receipt of above letter, failing which the allotment shall be cancelled and liability arising therefrom would be entirely upon the petitioner.

5. It appears that the petitioner did not respond even to this notice and in fact he deposited a sum of Rupees five lacs only in the month of March 2009 as per the document enclosed as Annexure-4 to the writ petition forwarded by the petitioner to the UPSIDC on 21.3.2009.

6. The petitioner for the first time vide letter dated 26.5.2009 asserted that the high tension wire line passes over the plot and it would not be possible to raise constructions until the high tension wire line continues to exist as well as without levelling the pond.

7. The petitioner thereafter, made another application on 9.6.2009 for return of the money alongwith interest on the ground that high tension wire lines are running over the plot and that there was a pond which cannot be interfered with because of the judgment of the Apex Court.

8. By means of the letter dated 22.6.2009 the petitioner has been informed about the clause 9 of the allotment letter, it was specifically mentioned that the allotment is on "as it is where it is" basis and therefore objections with regard to pond being there is of no consequence and similarly being of high tension wire line running over the plot is also of no relevance. The petitioner was informed that similar has been communicated earlier.

9. The petitioner under the order dated 31.7.2009 has been informed to get the lease-deed executed after complying with the conditions, failing which the allotment would be cancelled.

10. The petitioner seeks quashing of the letters dated 31.7.2009 and 22.6.2009.

11. In our opinion the present writ petition is only an attempt to wriggle out of the conditions of allotment which the petitioner had entered with open eyes. General conditions No. 2 of application form and clause 9 of the allotment letter specifically record that the plot is being allotted on "as it is where it is" basis. The petitioner accepted the offer but he failed to deposit the required money in pursuance to the Instalment schedule".

12. The Apex Court has repeatedly held that no writ proceedings under Article

226 of the Constitution of India can be maintained for avoiding the contractual conditions entered into with open eyes.

13. For the aforesaid reasons, we do not find any illegality in the letters of the Corporation dated 31.7.2009 and 22.6.2009 and no case is made out for interference with the impugned orders.

14. The writ petition is devoid of merits and dismissed accordingly. Interim order, if any, stands discharged.