

(2010) 08 KL CK 0128
In the High Court Of Kerala
Case No : W.A. No. 1359 of 2010

State of Kerala

APPELLANT

Vs

Sud Chemie India (P) Ltd.

RESPONDENT

Date of Decision : 16-08-2010

Acts Referred:

Kerala Government Land Assignment Act, 1960 — Section 3, 7

Citation : (2010) 08 KL CK 0128

Hon'ble Judges : Jasti Chelameswar, C.J;P.N.Ravindran, J

Bench : Division Bench

Advocate : Government Pleader, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

J. Chelameswar, C.J.—The respondents in W.P.(C) No. 32544 of 2006 are the appellants herein. The writ petition was allowed by judgment dated 26th May, 2010. The sole respondent, a private limited company, secured allotment of 21.52 acres land from the State of Kerala in the year 1976 for the purpose of establishing an industrial unit in the Edayar Industrial Area. Eventually the abovementioned piece of land was transferred to the respondent herein by way of assignment under the Rules for the assignment of Government lands for industrial purposes. The said Rules are made in exercise of the powers conferred on the Government of Kerala under Sections 3 and 7 of the Kerala Land Assignment Act, 1960.

2. Admittedly the respondent set up an industrial unit where chemicals and catalysts are manufactured. It appears from the judgment under appeal that initially when the industrial unit was set up in the year 1976 the turnover of the industry was around 10 to 15 crores of rupees whereas by the time the writ petition came to be filed the turnover of the industry rose to Rs. 160 crores. It is stated at the Bar that for the year 2009-2010 the annual turnover of the industrial unit is Rs. 358 crores.

3. However, by the order under Ext.P8 (G.O.(MS) No. 168/06/Rev. dated 29.5.2006) the appellants herein purported to repossess an extent of 5 acres 21 cents and 900 sq.links of land out of the originally assigned extent of land from the possession of the respondent on the ground that the said portion of land remained unutilized. Therefore, the writ petition.

4. By the judgment under appeal, a learned Judge of this Court allowed the writ petition holding as follows:

I am of opinion that these rules do not postulate that every inch of land assigned in favour of a person under the rules should be occupied by buildings, failing which, the Government is entitled to resume the land. That is not the spirit of the rules at all. Naturally every growing industry would require land for expansion. Expansion cannot be in the beginning itself. It can only be in the course of time as the business of the industry expands. Therefore naturally for that purpose also the industry would require land. If Government takes a stand that the entire land assigned should be utilized all at once then the industry cannot progress at all. It will always have to stand still, especially in view of the fact that out of the 50 acres originally required by the petitioner, the Government was able to assign only 25.52 acres. Practically the conditions in Ext.P3 patta are a re-production of the above said rules which also do not contain any provision to the contrary. For all the above reasons, I do not find any justification for resumption of the land as done by the Government in Ext.P8 order. Accordingly Ext.P8 order is quashed. The writ petition is allowed as above.

5. We are entirely in agreement with the logic and conclusion of the judgment under appeal. The only thing we wish to add to the above extracted conclusion is that it is not only the spirit of the said Rules but it is also the letter of the said Rules which is important and there is nothing in the Rules which require that every inch of the land assigned for an industrial purpose should actually be put to use in the sense of making construction thereon or carrying on some other activity at once. In the absence of such a stipulation, a reading of such a requirement into the Rules would not only be contrary to the settled principles of interpretation of statutes and statutory instruments but also would be an irrational and unreasonable understanding of the scheme and purpose of the Rules.

In the circumstances, we do not see any reason to interfere with the judgment under appeal. Therefore, the writ appeal is dismissed at the admission stage.