

(2016) 01 RAJ CK 0110
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7681 of 2014.

State of Rajasthan

APPELLANT

Vs

M/s. Jai Dye Chemicals and Others

RESPONDENT

Date of Decision : 18-01-2016

Acts Referred:

Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959 — Rule 14

Citation : (2016) 2 DNJ 481 : (2016) RRD 460

Hon'ble Judges : Gopal Krishan Vyas, J.

Bench : Single Bench

Advocate : O.P. Boob, Government Advocate, for the Appellant; Dilip Kawadiya and Rajesh Shah, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Gopal Krishan Vyas, J. - The instant writ petition has been filed by the petitioner for following relief:

(i) The order dated 9.4.2013 (Annex.6) passed by the learned Board of Revenue in Appeal/Legal Representative/429/2012 may kindly be quashed and set aside;

(ii) The order dated 15.7.2010 passed by the District Collector, Udaipur may very kindly be upheld and maintained.

(iii) Any other relief/reliefs which this Hon'ble court may deem just and proper in the facts and circumstances of the case, may also be granted in favour of the petitioner."

2. As per the facts of the case, vide order dated 11.8.1990 the learned District Collector, Udaipur passed an order as per provisions of Rajasthan Land Revenue (Conversion of Agricultural land for non-agricultural purpose) Rules, 1961 (hereinafter referred to as the Rules of 1961 for short) read with Industrial Area Allotment Rules, 1959 whereby land measuring 0.7600 hectare of Aaraji No.4038 to 4041 was leased out for establishment of Black Sulfur Industry upon certain

terms and conditions. As per the terms and conditions of the allotment, the allottee was required to complete the construction of the industry and was to start business within 2 years of period but he has failed to start the Black Sulfur Industry, therefore, vide order dated 5.9.2006, the District Collector, Udaipur cancelled the allotment and passed an order to resume the land in favour of the State Government.

3. Aggrieved by the order dated 5.9.2006 the respondent no.1 preferred an appeal no.140/2006 under Section 75 of the Rajasthan Land Revenue Act, 1956 before the Revenue Appellate Authority, Udaipur. The Revenue Appellate Authority, Udaipur allowed the appeal and quashed the order dated 5.9.2006 vide judgment dated 11.12.2007 and remitted the case to the District Collector, Udaipur for deciding the same afresh.

4. In compliance of above order, the District Collector, Udaipur again decided the case and rejected the application filed by the respondent vide order dated 15.7.2010.

5. Being aggrieved and dissatisfied with the order dated 15.7.2010 passed by the District Collector, Udaipur again an appeal was preferred under Section 75 of the Act of 1956 before the Revenue Appellate Authority, Udaipur the Revenue Appellate Authority, Udaipur allowed the appeal No.25/2011 and quashed the order dated 15.7.2010 passed by the District Collector, Udaipur vide judgment dated 20.7.2011.

6. The State Government preferred an appeal no.429/2012 against the above order before the Board of Revenue, Ajmer under Section 76 of the Act of 1956 but learned Board of Revenue dismissed the appeal filed by the State Government vide order dated 9.4.2013 on the ground that as per amendment made under Rule 14 of the Rules of 1959 the Revenue Appellate Authority, Udaipur has rightly set aside the order passed by the District Collector, Udaipur.

7. The learned Government Counsel appearing for the State submits that although an amendment was made under Rule 14 of the Rules of 1959 but that amendment cannot be given effect retrospectively, therefore, both the orders passed by the Revenue Appellate Authority, Udaipur as well as Board of Revenue, Ajmer impugned in this writ petition deserve to be quashed.

8. Learned counsel appearing for the respondents Sh. Dilip Kawadiya and Rajesh Shah submit that it is not a case of applicability of the amendment retrospectively or prospectively because rule 14(1) of the Rules of 1959 itself has been amended, therefore, both the courts below gave finding that the amendment made vide notification dated 4.6.2014 speaks that if any industrial establishment is not made after conversion of land then prayer for conversion of land again for agricultural purposes can be accepted. The amendment made vide notification dated 5.6.2010 is as follows:

"2. Amendment of rule 14. - The existing sub-rule (1) rule 14 of the Rajasthan

Land Revenue (Industrial Areas Allotment) Rules, 1959, s 1959, shall be substituted, namely:-

(1) Any person SHO has surrendered his Khatedari land and got the land allotted on lease for the setting up of an industry may at anytime apply to the Collector for reverting the land for the original use. In such case, the Collector shall pass an order for reversion and on such reversion the status of the land shall be the same as it was before he had surrendered his Khatedari rights, but he shall not be entitled to get refund of any amount paid by him for the conversion or otherwise. If the person whose land was reverted to original use intends to use the said land for other non agricultural purposes, he may apply to appropriate authority for conversion under the relevant rules."

9. After perusing above amendment and both the judgments impugned, I am of the opinion that no error has been committed by both the courts below to quash the order of the District Collector dated 5.9.2006. In view of the above facts, no interference is called for in the current finding given by the Revenue Appellate Authority, Udaipur as well as Board of Revenue, Ajmer in the impugned orders.

10. Hence, this writ petition is hereby dismissed.