

(2020) 02 RAJ CK 0192
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9575 Of 2016

State Of Rajasthan

APPELLANT

Vs

M/s Ropesh and Wires, 42 Arvind Nagar, Sundervas And Ors

RESPONDENT

Date of Decision : 07-02-2020

Acts Referred:

Rajasthan Industrial Area Allotment Rules, 1959 — Rule 8

Citation : (2020) 02 RAJ CK 0192

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : L.K. Purohit, Dharendra Pandey, Ramniwas Haniya

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner - State aggrieved against the orders dated 16.7.2013 passed by the Revenue Appellate Authority and order dated 4.8.2015 passed by the Board of Revenue, whereby cancellation of lease deed ordered by the District Collector vide order dated 24.2.20212, has been set aside and appeal filed by the State has been rejected, respectively.

Allotment of land was made vide order dated 6.8.1997 (Annex.1) under the Rajasthan Industrial Area Allotment Rules, 1959 ('the Rules of 1959') to the respondent No.1. After issuing notice, by order dated 24/27.2.2012, the District Collector on coming to the conclusion that the land in question was not being used for industrial purpose, cancelled the lease deed.

Feeling aggrieved, the petitioner - State approached the Revenue Appellate Authority.

The Revenue Appellate Authority by its order dated 16.7.2013 (Annex.3) came to the conclusion that the power under Rules of 1959 for cancellation is confined to a case where the industry is not set up within a period of two years from the date of allotment and that as the industry was set up within a period of two years, the power of cancellation could not be exercised and consequently, set

aside the order passed by the District Collector.

The petitioner - State filed appeal before the Board of Revenue, which upheld the order passed by the Revenue Appellate Authority.

It is submitted by learned counsel for the petitioner that though the industry was set up, however, at the time when the notice was issued, nothing was being done at the plot of land i.e. it was not being used for industrial purpose and, therefore, the petitioner was justified in cancelling the allotment under the Rules of 1959 and, therefore, the orders impugned passed by the two authorities below, deserve to be quashed and set aside.

Learned counsel for the appearing for the respondent supported the orders impugned.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

The facts are not in dispute, wherein, the land in question was put to use within a period of 2 years for industrial purpose, however, on account of subsequent events, the industrial work at the plot of land came to a halt, based on which, apparently the notice was issued to the respondent.

Provisions of Rules of 1959, insofar as relevant, reads as under:-

"Rule 7. Setting up of Industries other than tourism unit. - shall be set up within a period of two years on the land allotted for the purpose, failing which, the land shall revert to the Government, unless the period of two years is extended by the allotting authorities for valid reasons:

Provided that if such land could not be used for Industrial purposes within the period as prescribed above, the State Government may extend the period further as deemed proper. In such cases, the applicant shall move application through the Divisional Commissioner who after examination of the case, forward the same to the State Government with his comments.

Rule 8. Land not to be used for other purpose.-(1) The land given for industrial purpose shall not be used for any other purpose except constructing factory premises and such other residential quarter as are required for those engaged in that industry. No constructions shall be permitted which may have the object of using it as a commercial undertaking other than the industry permitted to be established."

A bare look of the above provisions would reveal that the cancellation can take place, in case, the industrial unit is not set up within a period of two years and/or the same is used for any other purpose i.e. other than the industrial purpose.

The non-user cannot be made the subject-matter under Rule 8 for cancellation and it cannot be said that, in case, of non-user on account of the industrial activity coming to a halt, the same would amount to using it for any other

purpose so as to invoke the provisions of Rule 8.

In view thereof, no case for interference in the orders impugned is made out. The petition has no substance. The same is, therefore, dismissed.