

Gautam and Co. Vs. State and ors.

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Court : Rajasthan

Decided On : Sep-02-1992

Reported in : 1992WLN(UC)221

Judge : Rajesh Balia, J.

Appeal No. : S.B. Civil Writ Petition No. 567 of 1981

Appellant : Gautam and Co.

Respondent : State and ors.

Judgement :

Rajesh Balia, J.

1. The petitioner is a partnership firm. It was allowed to convert 1/2 bigha agriculture land within the town of Chittorgarh under the Rajasthan Revenue (Allotment, Conversion and Regularisation of Agriculture Land for Construction of Cinema and Hotels and for the Establishment of Petrol Pump) Rules, 1978 (hereinafter referred to as 'the Rules of 1978') and the lease deed of the said land was also executed between the petitioner-firm and the State of Rajasthan, for the purpose of establishing a Hotel thereon.

2. The petitioner submitted plan for construction of proposed building (Annex.3) to the Municipal Board, Chittorgarh for its approval and the approval was granted by

the Executive Officer of the Municipal Board and, the permission was granted on 19.5.1980, with the following conditions:

*1- Hkou ds iwoZ esa de ls de 15] dk lsV cSad (Set Back) j[kk tkosa A

2- Hkwfe Hotel ds fy, Convert dh x;h Fkh vr% bldks fl QZ Hotel ds dke es yh tkosa Commercial ds use esa ugha ykbZ tkosa

3- gksVy dk fuekZ.k dk;Z vksoj lh;j ;k J.En. ls os vkmV ysdj gh dk;Z izkjEHk djuk gksxkA

4- ysVhu lqyHk lkSpky; VkbZ cukbZ tkosxhA

5- vkxs dksbZ izkst WD'ku ugha j[kk tkosxkA

6- lHkh fu;eksa ,oa vkns'kksa dh ikyuk djuh gksxhA

3. Thereafter, while the construction work of the building was commenced, the petitioner was first served with notice Annex.5 dated 17.1.1981, inviting petitioner's attention that sanction was granted only for construction of Hotel and not for commercial purposes. In the plan, the petitioner has shown 11 shops to be constructed on the ground floor, therefore, he was directed to submit revised on and he was further directed not to construct in accordance with the earlier approved plan. Similar notice was again repeated on 20th January, 1981 vide Annex. 6, to which a reply was given by the petitioner on 19.3.1981. Thereafter, vide the communication dated 31st March, 1981 (Annex. 8), the petitioner again was required to furnish revised plan and stop the construction work which was going on.

4. The petitioner has challenged the aforesaid communications Annxs. 5, 6 and 8, in this writ petition, inter alie on the around that the Municipal Board had no authority to issue these notices, stopping the petitioner from carrying out construction in accordance with the approved plan once the permission has been given. The petitioner has claimed for the following reliefs:-

an appropriate writ, order or direction be issued-

(i) quashing the orders Annexures 5, 6 and 8:

(ii) restraining the respondents No. 2 and 4 from any way obstructing the petitioner from constructing the hotel in accordance with the permission Annexure-3;

5. This Court, while issuing notice of the petition on 10.4.1981 passed an inter in order, restraining the respondent from interfering with the construction of the Hotel by the petitioner in accordance with the plan and sanction given by the respondent No. 2 vide Annx. 2 and the interm order was continued on 6.6.1981 and confirmed on 1.12.1981.

6. It is informed by learned Counsel for the parties that the construction work has since been completed.

7. In view of the fact that the construction work, has already completed, the relief No. 2 stated hereinabove, has become infructuous and, the question about issuance of notices Annexures 5, 6*and 8 has become of academic importance. If the respondents have reasons to believe that the building has been constructed contrary to the terms and conditions of approval granted vide Annx. 3, or, any condition of the approval has subsequently been breached; the respondents are free to take any action in respect thereof, for which they are entitled to take action against the petitioner, in accordance with law.

8. With the aforesaid observations, the petition stands disposed of.

9. There will be no order as to costs.