

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CA (AT) (Ins) No. 1683 of 2026

IN THE MATTER OF:

Basu Deo Yadav

...Appellant(s)

Versus

**Rajasthan State Industrial Development
And Investment Corporation Ltd. and Ors.**

...Respondent(s)

Present:

For Appellant(s) : Mr. Kunal Godhwani, Ms. Devisi Bhuwalka, Mr. Ankur Anand, Advocates.
For Respondent(s) : Mr. Ramji Srinivasan, Sr. Advocate with Mr. Nipun Gautam, Ms. Shefali Munde, Advocates for CoC.
 Mr. Anuj Bhandari, Advocate for RIICO.
 Mr. Milan Singh Negi, Mr. Nikhil Kumar Jha, Ms. Katyayani, Advocates for R-2.

With

CA (AT) (Ins) No. 1687 of 2026

IN THE MATTER OF:

Vikram Bajaj

...Appellant(s)

Versus

**Rajasthan State Industrial Development
And Investment Corporation Ltd. and Ors.**

...Respondent(s)

Present:

For Appellant(s) : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Milan Singh Negi, Mr. Nikhil Kumar Jha, Ms. Katyayani, Advocates.
For Respondent(s) : Mr. Ramji Srinivasan, Sr. Advocate with Mr. Nipun Gautam, Ms. Shefali Munde, Advocates for CoC.
 Mr. Kunal Godhwani, Ms. Devisi Bhuwalka, Mr. Ankur Anand, Advocates for R-2.

O R D E R
(Hybrid Mode)

09.09.2026: Heard Shri Abhijeet Sinha, Ld. Sr. Counsel appearing for the Appellant, Shri Ramji Srinivasan, Ld. Sr. Counsel appearing for CoC as

well as Shri Anuj Bhandari, Ld. Counsel for Respondent/RIICO, Shri Kunal Godhwani, Ld. Counsel for SRA and perused the record.

2. Ld. Sr. Counsel for the Appellant submits that it is on the instance of the Corporate Debtor (CD) namely, (M/s Arjun Industries Ltd.) two pieces of land namely B1 and B2 were allotted for the purpose of establishing cashew and spice processing unit for industrial purpose for 99 years vide lease deed dated 16.10.1995.

3. It is further submitted that by communication dated 02.03.2021 the lease deed was cancelled on alleged violation of certain conditions and terms of the lease deed, which are not admitted to the Appellant.

4. It is further submitted that immediately after the cancellation of the lease deed the CD had approached the Permanent Lok Adalat, Alwar, Rajasthan (PLA) by filing case no. 725 of 2019, against the show cause notice and vide order date 25.03.2021 an interim stay order was passed therein whereby the operation of the order passed by the RIICO with regard to the cancellation of the lease deed was stayed.

5. It is further submitted that the final order in those proceedings was passed by PLA on 12.01.2022, whereby lease cancellation order passed by the RIICO was set aside with consequential directions.

6. It is further submitted that the said order passed by the PLA was assailed by the RIICO before the Hon'ble High Court of Rajasthan in Civil Writ Petition No. 8311/2022 wherein on 11.07.2022 the operation and effect of the award (order) dated 12.01.2022 passed by the PLA was stayed, till further

orders and that writ petition is still pending and the stay order is also continuing.

7. It is further submitted that on 22.02.2024, the CIRP proceedings were initiated against the Corporate Debtor and after the moratorium initiated and after issuance of public announcement, collation of claim and constitution of the CoC, the Form G was issued and ultimately on 30.11.2024 in the 9th CoC meeting the plan submitted by the Respondent No. 2 was approved by the voting share of 100% and consequently an application being IA No. 71/2024 was moved by the RP before the Ld. Adjudicating Authority for the approval of the plan.

8. It is further submitted that by passing the impugned order the application submitted by the RP for approval of the plan has been rejected by the Ld. Adjudicating Authority on the ground that the plan has included a land owned by the third party, with the observation that the same shall stand excluded, however the exclusion would abide by the final outcome of the writ petition pending before the Hon'ble Rajasthan High Court.

9. It is further submitted that by passing the impugned order the liberty was also granted to the CoC to take a decision with regard to the liquidation of the CD.

10. It is further submitted that the impugned order which has been passed by the Ld. Adjudicating Authority may not withstand a test of law as it has not been considered that on the execution of the lease deed the CD has already acted upon and had established a factory and therefore there was no occasion for the RIICO to have cancelled the lease deed and the Ld.

Adjudicating Authority also was not having any jurisdiction at all to adjudicate on the contractual rights of the parties.

11. It is further submitted that till 2022 the interest of the CD was protected by an interim order passed by the PLA and thereafter by initiation of CIRP the moratorium was in effect by virtue of Section 14 of the Code and now after passing of the impugned order the appellant is apprehending that the nature of the property may be changed or any third party rights may also be created by the RIICO and as the moratorium continues the sole property owned by the CD may be protected during the pendency of the instant appeal by passing suitable direction, otherwise the Appellant will suffer irreparable loss.

12. Shri Ramji Srinivasan, Ld. Sr. Counsel appearing for the CoC endorses the submissions made by Shri Abhijeet Sinha, Ld. Sr. Counsel for the Appellant and further submits that the plan was approved by 100% voting share and there was no occasion for the Ld. Adjudicating Authority to have passed the impugned order more so when the sole property of the CD was the subject land and after obtaining unconditional undertaking from the SRA with regard to the nature of the property and also with regard to the proceedings pending in the Hon'ble High Court of Rajasthan the plan was approved by the CoC.

13. Ld. Sr. Counsel for the CoC has relied on the law laid down by the Hon'ble Supreme Court in ***Shree Chamundi Mopeds Ltd. vs. Church of South India Trust Assn. (1992) 3 SCC 1.***

14. Ld. Counsel for the SRA also endorses the submission made by the Ld. Sr. Counsel for the Appellant as well as by the Ld. Sr. Counsel for the CoC and submitted that he has made all the disclosures and was fully aware about

the litigation with regard to the subject land pending before the Hon'ble High Court of Rajasthan and submitted a plan in accordance with the IM and also submitted an undertaking with regard to the fact that the SRA is aware pertaining to the proceedings pending before the Hon'ble High Court of Rajasthan with regard to subject land therefore the Ld. Adjudicating Authority has committed an illegality by passing impugned order..

15. Ld. Counsel appearing for the RIICO on the other hand submits that the order(award) passed by the PLA is without any jurisdiction and before the same is nullity in the eyes of law and no reliance could be placed on the same.

16. It is further submitted that the market value of the subject property is Rs. 150 Crore while the value as per the circle rate is about Rs. 80 Crore, while the plan has been submitted only for the value of Rs. 93 Crore.

17. It is further submitted that the Cancellation of the lease deed was done before the initiation of the CIRP and therefore no right is now available to the CD or to the SRA with regard to the subject land and there is no illegality in the impugned order.

18. It is further submitted that after cancellation of the lease deed the possession is legally of the RIICO and if the RP is claiming the possession of the CD the same at the most may be deemed to be a possession without any source and is illegal. In this regard explanation appended with Section 18 of the Code has been relied.

19. While referring to the ***Chamundi Mopeds Ltd. (supra)*** relied on by Ld. Sr. Counsel for the CoC it is submitted that the same would not put the RP/CD or the SRA as the owner of the land while the judgment passed by the

PLA was per se illegal and may be ignored by the tribunal as well as by this Appellate Tribunal.

20. Ld. Counsel for the RIICO has relied on the law laid down by the Hon'ble Supreme Court in ***BPL Ltd. and Ors. vs. R. Sudhakar and Ors., (2004) 7 SCC 2019.***

21. We have considered the rival submissions made by Ld. Counsel for the parties and find that there are certain facts which are not disputed before us. It is not disputed that by executing the lease deed the subject land was leased in favour of the CD by executing a lease deed on rent and the possession of the subject land was also handed over to the CD.

22. It is also not in dispute that the lease deed was cancelled by the RIICO by passing an order dated 02.03.2021. It is also not a dispute that after cancellation of the lease deed the CD had approached the PLA at Alwar, Rajasthan and initially an interim order was passed and subsequently the order of the cancellation of the lease deed was quashed with consequential directions.

23. It is also not a disputed fact that after passing of the order by the PLA the RIICO had approached a Hon'ble High Court of Rajasthan by filing a writ petition and vide order dated 11.07.2022 the following order was passed by the Hon'ble High Court of Rajasthan:

“Ld. Sr. Counsel for the petitioners, drawing attention of this Court towards the provisions of Section 22-A (b) of the Legal Services Authorities Act, 1987, submitted that allotment/cancellation of an industrial plot is not covered under the “public utility service” and hence, the impugned award dated 12.01.2022 passed by Permanent Lok Adalat, Alwar is nullity being without jurisdiction.

Issue notice of the writ petition as well as of stay application. Rule is made returnable by five weeks. Notices be filed in two sets. One set of notices be sent through registered post with acknowledgment due. Steps to be taken within a week.

Heard Ld. Sr. Counsel on interim relief.

Taking into consideration the contentions advanced by him and the material on record, this Court deems it just and proper to stay the operation and effect of the award dated 12.01.2022, till further orders”.

24. It is also not in dispute that the Ld. Adjudicating Authority vide impugned order of date 11.08.2026, has not approved the plan submitted by the Respondent No. 2 and dismissed the application filed by the RP for approval of the same. The operative part of that impugned order is reproduced as under:

*“18. The Resolution Plan being totally founded on the asset which is not owned by the CD, is not implementable and is liable to be rejected. Ordered accordingly. The IA-71/ND/2024 stands dismissed. In the wake of the order dated 11.07.2022 passed by the Hon’ble High Court in S.B. Civil Writ Petition No. 8311/2022, the Plot No. SP3-11 (B1) & SP3- 11 (B2), admeasuring 80, 745.5 sq. meter [SP3-11 (B1)-admeasuring 38973.90 sq. meter and SP3-11 (B2) admeasuring 41771.60 sq. meter Khushkhera, Bhiwadi stand excluded from the asset of the CD. It goes without saying that the exclusion would abide by the outcome of aforementioned writ petition. Ideally, in terms of the provisions of Section 33 (1) (b) of IBC, 2016, we could have ordered liquidation of CD. However, as in terms of the provisions of sub-section 1A of Section 33 of the Code, before passing of liquidation order, this Tribunal need to consider an application made by CoC with 66% vote share for restoring the CIRP, at this stage, we refrain from doing so. **Subject to aforementioned the applications stand disposed of”.***

25. Various submissions have been made by Ld. Counsel for the parties for and against as to whether if any interim direction which may be passed by this Appellate Tribunal, till the disposal of this appeal.

26. It has been contended before us by Ld. Counsel for the appellant that the possession given by the RIICO to the CD was never taken back, however Ld. Counsel for the RIICO has disputed this submission by saying that in the cancellation order itself it has been mentioned that CD would have to hand over the possession to the RIICO within 7 days and according to him the deemed possession over the subject land is of the RIICO. While the case of the appellant is that there is no document on record which may suggest that the possession of the subject land was ever taken. The another apprehension of the appellant shown is that since the impugned order has been passed by the Ld. Adjudicating Authority there is every apprehension that the third party rights may be created by the RIICO on the subject land which would be detrimental to the rights of the CD in the subject land and nature of the land may also be changed by the officers of RIICO and therefore the interest of the appellants be protected till the disposal of the appeal by passing interim stay.

27. Having considered all the facts and circumstances of the case, we are of the considered view that the ends of justice would meet if the parties may be directed to adhere to the status quo as on today with regard to the subject land.

28. Thus we direct the parties to maintain status quo as on today with regard to the subject land, which will also include not to create any third party rights.

29. The notice on behalf of the Respondents have already been received by their respective Counsels.

30. Ld. Counsel for the RIICO prays for and is granted three weeks' time to file the reply with an advance copy to Ld. Counsel for the Appellant who in turn if so wish may file the rejoinder within one week thereafter.

31. List on **15.10.2026**.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

sr/mr