

State of U. P. and Others

Vs

Sri Narain

Civil Appeal No. 424 of 1963

(K. Subha Rao, Raghuvar Dayal, R. S. Bachawat, J. R. Madholkar, V. Ramaswami – I JJ)

22.02.1965

JUDGMENT

RAGHUBAR DAYAL, J.-

This appeal, by special leave, raises the question whether Zamindari Abolition Compensation Bonds (shortly termed Bonds) issued by the U.P. Government to intermediaries in payment of compensation payable on the basis of their rights under the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act I of 1951), hereinafter referred to as the Act, have to be accepted by the appropriate authorities in payment of the agricultural income-tax due from them.

The facts leading to the appeal, in brief, are that the respondent, an ex-Zamindar, was assessed to agricultural income-tax in the assessment year 1360 F corresponding to 1952-53, on the basis of the agricultural income accruing in the previous year 1359 F corresponding to 1951-52. He did not pay the assessed tax and was further assessed to a penalty. In the result, Rs. 868/- were to be paid by him for tax plus penalty.

The respondent's writ petition contending that he was not liable to pay tax was dismissed by the High Court. Thereafter, the agricultural income-tax authorities took out proceedings for the realisation of the amount due from him. On July 24, 1956, the respondent presented an application to the Agricultural Income-tax Assessing Officer, Allahabad, stating that he had no ready cash to pay the dues and that he was therefore depositing Bonds of the value of Rs. 850/- and Rs. 18/- in cash and praying that the Bonds be accepted in payment of tax dues. This application was rejected by an order stating that there was no rule for the acceptance of those bonds and that they be returned to the applicant.

On August 1, 1956, the respondent made a similar application to the Collector complaining that the Assessing Officer had no valid reason to refuse to take the Bonds when the Bonds were negotiable instruments. This application was also rejected on a report of the Assessing Officer that the Bonds were not accepted in the settlement of agricultural income-tax dues, that they were not negotiable and that there was no provision in the Act for their acceptance.

Thereafter, the respondent presented a writ petition to the High Court of Allahabad praying for the issue of a writ of certiorari quashing the orders of the Assessing Officer and the Collector, Allahabad, for the issue of a writ of mandamus directing them to accept the Bonds in lieu of the tax dues and, in any case, to deduct the amount from the rehabilitation grant due to the petitioner and for the issue of a writ of prohibition directing the opposite parties from adopting coercive measures for the realisation of the tax due from the petitioner. The grounds mentioned in support of the

prayers were that the Bonds were negotiable instruments and therefore refusal to accept them in payment of agricultural income-tax was illegal, that they, having been issued by Government, could not be subsequently refused they being perfectly valid legal tender and that in view of r. 8A of the Rules made under the Act the amount due for tax should have been deducted from the interim compensation.

The counter affidavit filed by the Naib-Tehsildar Agriculture Income-tax Officer, Allahabad, on behalf of the State, stated that the respondent was assessed to agricultural income-tax in the assessment year commencing from July 1, 1952 on the income derived in the previous year commencing from July 1, 1951, that the tax had to be paid in four instalments and in default of payment a penalty of Rs. 43/- was imposed for each default in payment of the four instalments and that the Bonds could not be accepted towards the tax due under s. 6(d) of the Act read with r. 48 of the Rules as the tax had fallen due in 1360 F, corresponding to July 1, 1952 to June 30, 1953.

The High Court held that the orders of the Agricultural Income-tax Assessing Officer and the Collector were wrong as the ground for refusing to accept the Bonds in payment of the tax on the ground that there was no rule or statutory provision for their acceptance was incorrect and appeared to have been given in complete ignorance of the provision of law. Reference was made to the provisions of s. 6(d) of the Act and r. 8-A. The High Court was of the opinion that these have been completely ignored by the two officers. It, therefore, thought that the orders were liable to be quashed and that adequate relief would be available to the respondent if a direction was given to the Collector to decide his application dated August 1, 1956, in accordance with law. The High Court therefore quashed the order of the Collector dated August 24, 1956 and directed him to decide the respondent's application afresh in accordance with law as indicated above.

The appellant thereafter obtained special leave from this Court and appealed against the order of the High Court dated April 8, 1960.

The main contention for the appellant before us is that neither s. 6(d) of the Act nor r. 8A provides that Bonds can be accepted in payment of agricultural income-tax and that therefore the order of the Collector dated August 24, 1956 was correct. For the respondent it is urged that r. 8A makes it mandatory for the Agricultural Income-tax Officer to realise the agricultural income-tax due from the compensation payable and that compensation continues to be payable till the Bonds are actually encashed.

Section 6(d) of the Act, as originally enacted, did not provide, among the consequences of the vesting of the estate in the State, that arrears on account of agricultural income-tax might be realised by deducting the amount from the compensation money payable to the intermediary under Chapter III. An amendment was made in this clause (d) by s. 3 of U.P. Act XVI of 1953, with retrospective effect from July 1, 1952, and the relevant portion of the provision after amendment reads thus :

"All arrears of revenue, ..... or an arrear on account of tax on agricultural income assessed under the U.P. Agricultural Income-tax, Act, 1948 for any period prior to the date of vesting shall continue to be recoverable from such intermediary and may, without prejudice to any other mode of recovery be realised by deducting the amount from the compensation money payable to such intermediary under Chapter III;"

Rule 8A was added to the rules by Notification No. 3266/I-A-1056-1954 dated August 17, 1954 and its relevant portions read :

"8-A. Without prejudice to the right of the State Government to recover the dues mentioned below by such other means, as may be open to it under law :

(1) all arrears of land revenue in respect of the estates which have vested in the State Government as a result of the notification under Section 4 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Act I of 1951), and of tax on agricultural income assessed under the U.P. Agricultural Income-tax Act, 1948 (U.P. Act III of 1949) due from an intermediary for any period prior to the date of vesting shall be realised :

(a) in the case of an intermediary who was assessed to land revenue of Rs. 10,000 or more from the amount of interim compensation due to him, and

(b) in the case of an intermediary who was assessed to a land revenue of less than Rs. 10,000 per annum by deduction from the amount of compensation payable to him;"

It is clear from the above provisions that neither s. 6(d) nor r. 8A provide that Bonds must or can be accepted in payment of tax on agricultural income.

It has been held by this Court in *Collector of Sultanpur v. Raja Jagdish Prasad Sahi* [[1965] 2 S.C.R. 28] that the provisions of s. 6(d) of the Act would apply to arrears on account of agricultural income-tax assessed in 1360F on the basis of agricultural income during the year 1359F and that the provisions of r. 8A are mandatory.

It is not urged for the appellant that r. 8A is inconsistent with the provisions of s. 6(d) which provides that arrears of tax may be realised from the compensation payable and therefore appears to give a discretion to the authorities to realise the arrears of tax from the compensation payable.

We do not agree with the contention for the respondent that the compensation payable to the intermediary continues to remain payable even after the compensation Bonds had been delivered to him. Section 68 of the Act provides that the compensation under the Act shall be payable in cash or in bonds or partly in cash and partly in bonds as may be prescribed. It is clear therefore that the delivery of Bonds to the intermediary is in payment of the compensation. The claim for compensation is thus satisfied when the compensation has been paid in accordance with the provisions of s. 68. This is also clear from the relevant rules for the payment of compensation.

Rule 62 as it stood prior to November 29, 1956, provided that the compensation would be paid in negotiable bonds which would be described as Zamindari Abolition Compensation Bonds. Rule 63 as it then stood provided that the Bonds would be issued in specified denominations and would bear interest at the specified rate on the principal that had become payable calculated from the date of vesting. Rule 64 provided that interest together with the principal of a Bond would be paid in equated annual instalments except for the last, as described in Appendix IV during the period of 40 years beginning from the date of vesting, provided that any Bond might be redeemed at an earlier date at the option of the Government. Rule 65 provided that the instalments due on a Bond from the date of its enfacement would be payable on presentation from and after July 1st next after the delivery of the Bond to the intermediary.

These rules show that the compensation does not remain payable after the delivery of the Bonds and that the Bonds could not be cashed before the due date for their encashment.

The fact that the Bonds are negotiable does not make them legal tender and does not make it obligatory on anyone, including Government, to accept them in payment of any dues. The only result of their being treated as negotiable instruments is that the owner of the Bonds can transfer them to any person who is agreeable to purchase them.

When the compensation payable to an intermediary has been paid in the form of cash or Bonds, that compensation ceases to be payable. Section 6(d) of the Act and r. 8A of the rules do not, as already stated, provide for the receipt of agricultural income-tax in the form of Bonds.

We are therefore of opinion that the Collector cannot be said to be in error in not accepting the Bonds which had been delivered and which were not even cashable at the time, in payment of the arrears of agricultural income-tax payable under the Agricultural Income-tax Act.

We accordingly allow the appeal, set aside the order of the High Court and restore that of the Collector dated August 24, 1956. The respondent will pay the costs of the appeal to the appellants.

Appeal allowed.

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