

Shree Krishna Gyanodaya Sugar Ltd.

Vs

State of Bihar

Civil Appeals Nos. 159, 291, 371, 999 of 1969

(J. C. Shah, K. S. Hegde JJ)

08.04.1970

JUDGMENT

HEGDE, J. -

1. Civil Appeals Nos. 159 and 291 of 1969 arise from two writ petitions (Nos. C.W.J.C. Nos. 197 and 234 of 1968) before the High Court of Judicature at Patna, filed by two companies (appellants in C.As. Nos. 159 and 291 of 1969) manufacturing alcohol in the State of Bihar. In C.W.J.C. No. 197 of 1968, the petitioners challenged the licence granted to the 4th respondent therein (the petitioners in C.W.J.C. 234 of 1968) for supplying alcohol. Similarly in C.W.J.C. No. 234 of 1968, the petitioners challenged the licence granted to the petitioners in C.W. J.C. No. 197 of 1968. Both those writ petitions were dismissed by the High Court. Thereafter the appellants in Civil Appeal No. 159 of 1969, moved the High Court for certificate under Clauses (a), (b) and (c) of Article 133 of the Constitution. The High Court did not consider their prayer under clauses (b) and (c) of Article 133 of the Constitution but granted a certificate under Article 133(1)(a) on the ground that the subject of A matter appeal is incapable of valuation. Civil Appeal No. 371 of 1969, brought by special leave is directed against the order granting that certificate. In C.W.J.C. 234 of 1968 certificate was asked for only under Article 133(1)(a) and (b) and the High Court was pleased to grant a certificate under Article 133(1) without specifying whether it is under clause (a) or (b) of Article 133(1). But from the order granting the certificate, it appears to be one under Article 133(1)(a). Quite clearly the subject matter of both the petitions was incapable of valuation as in the writ petitions, the licences given to one or other of the parties were asked to be cancelled.

2. In our opinion, the High Court erred in granting certificates under clause (a) of Article 133(1). A certificate under that clause can be granted only when the High Court certifies that the amount of the value of the subject matter of the dispute in that court as well as in appeal to this court was not less than Rs. 20,000/-. A subject matter which is incapable of valuation cannot be considered to be a subject matter of the value of not less than Rs. 20,000/-. see *Satyanarain Prasad v. State of Bihar*, (1270(2) SCC 275.) Hence no certificate under Article 133(1)(a) could have been granted. Hence Civil Appeal No. 371 of 1969 is allowed and the certificate granted in Civil Appeal No. 159 of 1969 is revoked. We suo motu revoke the certificate granted in Civil Appeal No. 291 of 1969. In the result Civil Appeals No. 159 and 291 of 1969 are dismissed. It will be open to the High Court to consider afresh the applications made by the appellants in those appeals for certificates under clause (e) of Article 133(1). Special leave Petition No. 999 of 1969 is adjourned sine die. The parties may move the court to take up that petition after the High Court decides the question whether the appellants in Civil Appeals No. 159 and 291 of 1969 are entitled to any certificate under clause (c) of Article 133 of the Constitution. In the circumstances of the case we make no order as to costs in these appeals.

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