

State Govt. of Madhya Pradesh and Another

Vs

Ramnaresh Swamy and Another

Civil Appeal No. 1830 (N) of 1972

(K. K. Mathew, P. K. Goswami, N. L. Untwalia JJ)

04.12.1975

JUDGMENT

UNTWALIA, J. -

1. The appellants in this appeal by special leave are the State Government of Madhya Pradesh and their Director of Geology and Mining. Ramnaresh Swamy and H. P. Pathak are respondents Nos. 1 and 2 respectively. Respondent No. 2 made an application to the State Government on May 13, 1966 for a quarry lease in respect of 33.63 acres of land for quarrying limestone for burning. His application was not disposed of within the time allowed by Rule 8 (2) of the Madhya Pradesh Mines and Minerals Rules, 1961 - hereinafter called the Rules. In the meantime respondent No. 1 filed an application on January 8, 1968 for grant of a quarry lease to him in respect of khasra No. 346, area 1.31 acres in Mouza Amehta. This land formed part of the large area in respect of which respondent No. 2 had applied for a quarry lease. His application also was not disposed of in time by the officer concerned. Respondent No. 1 filed an appeal under the Rules before the State Government on July 15, 1968. The appeal was transferred to the Board of Revenue for disposal. The Board ultimately remanded the case for reconsideration on merits. Respondent No. 2 had applied to the State Government for review against the deemed rejection of his application for a quarry lease. On June 16, 1969, the State Government reviewed the order and sanctioned the grant of lease to respondent No. 2 in respect of khasra No. 346 area 1.31 acres for a period of 10 years. On the same date, respondent No. 1 filed an application before the State Government for reconsideration and reviewing its order of the date. This application was dismissed by the State Government by their order dated September 5, 1970. Respondent No. 1 filed writ petition (M. P. No. 570/1970) in the Madhya Pradesh High Court and prayed for the quashing of the orders of the State Government dated June 16, 1969 and September 5, 1970. The High Court has quashed the earlier order and held the later order to be infructuous. It has expressed the view following its decision in Miscellaneous Petition No. 3 of 1968 decided on September 2, 1970 (Gorelal Dubey v. State of Madhya Pradesh) that the application filed by respondent No. 2 and the grant of lease in his favour was not for a minor mineral. The State has filed this appeal by special leave.

2. In the appeal arising out of the aforesaid decision of the High Court in Gorelal Dubey's case following the decision of this Court in Smt. Rukmani Bai Gupta v. State Government of Madhya Pradesh, Bhopal ((1975) 1 SCC 627) we have held that the application by Gorelal Dubey and the lease granted in his favour was for a minor mineral because in column 6 of paragraph 3 of the application, the applicant had stated that he wanted to extract limestone as a minor mineral. Reading the said column with his statement in paragraph 1 we held that in substance the application was for quarrying limestone for burning as a minor mineral as was the position in Rukmani Bai's case (supra). But we are unable to hold so in this case. The application filed by respondent No. 2

mentioned in column 6 of paragraph 3 "limestone for burning". In this application the expression "limestone for burning" was merely copied from the 1958 notification of the Government of India completely ignoring the 1961 notification. On the other hand, respondent No. 1 had used the expression "limestone used in kilns for manufacture of lime used as building material" in column 6 of paragraph 3 of the application. On the facts of this case, therefore, we do not feel persuaded to interfere with the judgment and order of the High Court. We accordingly dismiss the appeal but make no order as to costs.

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