

State of Bihar and Another

Vs

Madan Lal Jain

Civil Appeal No. 1936 of 1981

(CJI Y.V. Chandrachud, E.S. Venkataramiah JJ)

14.08.1981

ORDER

1. Heard counsel. Special leave granted.
2. The respondent, Madan Lal Jain, filed an application for grant of a lease of laterite deposits in the village Bodda, district Palamau. That application was rejected by the State Government on November 21, 1972. The respondent filed a revision application to the Central Government, which, by an order dated November 8, 1974 directed the State Government to grant the lease in conformity with its order. Even after the order of the Central Government the State Government did not grant the lease to the respondent.
3. The case of the State Government is that the lease was not granted to the respondent because he was in large arrears of rent. So far as this question is concerned, the High Court has observed in its judgment dated December 7, 1979 in the writ petition filed by the respondent, that the arrears "seem to be of a period subsequent to 1972 when the petitioner had filed a petition for grant of a lease", the State Government has ample powers to recover the arrears and that the fact that the respondent is in arrears cannot stand in the way of the State granting a lease to the respondent. Aggrieved by the judgment of the High Court the State of Bihar has filed this petition for special leave.
4. A notice was issued to the respondent to show cause why the special leave should not be granted. Having heard Mrs. Gyan Sudha Misra for the respondent we consider that this is a proper case for granting leave, which we hereby do.
5. The High Court has not recorded any clear or positive finding on the question as to whether the respondent is in arrears of rent and if so, whether the arrears are due for a period prior or subsequent to the date on which he applied for a mining lease. The High Court says that the arrears "seem" to be of a period subsequent to 1972. But the High Court then observes that the State has ample powers to recover the arrears "if any". It is not possible to ascertain from the judgment of the High Court whether the respondent is in fact in arrears and if so for which period. The High Court has also not considered the question as to what is the effect of the respondent being in arrears of rent for a period subsequent to the date on which he applied for the mining lease in question.
6. This makes it necessary to set aside the judgment of the High Court and remand the matter to it. The High Court will consider the question whether the respondent was in arrears of rent on the date on which he applied for the mining lease. If the finding on that question is in the affirmative, the respondent will not be entitled to the mining lease. The High Court will then consider the question whether the respondent was in arrears for the period subsequent to his application for the mining

lease. If the finding on that question is in the affirmative, the High Court will have to consider whether the State Government can refuse to grant the lease to the respondent for that reason.

7. Since the matter is pending for quite some time, we direct that the High Court will dispose of the writ petition expeditiously.

8. There will be no order as to costs.

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