

Jalkishan Mallah Matseyajeevi Sahakari Samiti Ltd.

Vs

State of Uttar Pradesh and Others

State of Uttar Pradesh and Anothers

Vs

Allahabad Balu Udyog and Others

Civil Appeal No. 261 with Civil Appeal No. 262 of 1986

(E. S. Venkataramiah, O. Chinnappa Reddy JJ)

24.01.1986

ORDER

CHINNAPPA REDDY, J. -

1. The right to excavate sand from Zone No. 1 of river Yamuna was auctioned by the Collector, Allahabad on November 13, 1981. The period for which the mining lease was to be granted was one year and in the alternative for three years. Bidders were required to offer bids for grant of lease for both the periods in the alternative. Respondents 4 and 5 offered a bid of Rs 1,10,000 per year and were the highest bidders. The State Government did not accept the bid. There was consequent litigation. The matter came to the Supreme Court and the court gave direction that the respondents might approach the Central Government in revision. The respondents went before the Central Government in revision. Meanwhile, as the litigation appeared to be prolonged, by way of an interim arrangement, the State Government directed an auction to be held for a period of one year only. This auction was held on March 8, 1982. Once again respondent 5 was the highest bidder with a bid of Rs 3,10,000. He was granted a lease for one year. The one year is stated to have expired on September 30, 1982. Apparently the sand-year (if such an expression may be used) expires on September 30 every year. On January 7, 1983, the Central Government passed orders in the revision petition filed by respondent 5. The Central Government came to the conclusion that the State Government did not appear to take a firm stand on the questions at issue. The Central Government was of the view that there should be some finality attached to the terms and conditions as well as the duration of the lease. The Central Government thought that in the particular case the revision petitioner, who had in the interim period taken the lease for an amount of Rs 3,10,000 for one year, should be allowed to work the lease for three years instead on one year provided he agreed to work the lease for Rs 3,10,000 per year. Pursuant to the order of the Central Government, the State Government by its order dated May 18, 1983 granted the lease for a period of three years 1981-82, 1982-83 and 1983-84, that is, up to September 30, 1984. This was questioned by respondents 4 and 5 by way of a writ petition in the High Court of Allahabad. They contended that the lease ought to have been for a period three years from May 18, 1983, the date of the grant of lease pursuant to the order of the Central Government. The High Court of Allahabad accepted the contentions of respondents 4 and 5 and allowed the writ petition. The present appeals have been filed by the State Government and by Jalkishan Mallah Matseyajeevi, Sahakari Samiti, a co-operative society, who

claims to be anxious to engage itself in the work of mining sand and who ought to implead itself as a party in the High Court offering to take the mining lease for Rs 7 lakhs per year. Shri Kacker, learned counsel for the Mallah Matseyajeevi Sahakari Samiti and Shri Anil Dev Singh, learned counsel for the State Government, argued before us that the High Court was wrong in its interpretation of the order of the Central Government. All that the Central Government did was to direct the grant of lease for a period of three years instead of one year for which the petitioner had obtained an interim lease on the same terms as the respondents had obtained the interim lease for one year, that is, at the rate of Rs 3,10,000 per year. In other words, the total period for which the lease was to be granted to the respondent was three years including the period for which they worked the mining lease by way of an interim arrangement. The contention of Shri Kacker appears to be correct. In fact, we find that was the case of the respondents also when they approached the State Government to grant a lease pursuant to the order of the Central Government. The respondents in their letter dated April 21, 1982 requesting the State Government to grant a lease pursuant to the order of the Central Government categorically stated that they should be granted a lease, the term of which would expire on July 25 1985. We also find that in the lower court the respondents also gave an undertaking that they would not work the lease after May 17, 1985. In the circumstances, we think that the High Court was not right in holding that the State Government was required to grant a lease for a period of three years from May 18, 1983, the date of the grant of lease. The parties themselves seem to have so understood the order in the beginning, though they apparently changed their mind by the time they filed the writ petition. On the earlier interpretation placed by the parties themselves on the order of the Central Government, they were not entitled to work the mining lease after the expiry of the sand-year 1985, that is, after September 30, 1985.

2. The appeals are, therefore, allowed. The order of the High Court is set aside. It is declared that the lease in favour of the respondents expired on September 30, 1985. There will be no order as to costs. Orders regarding amounts deposited with the Government may be sought from the High Court.

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