M/S. Kothari Plantations and Industries Ltd.

Vs

Director of Land Records, Shillong and Others

Civil Appeal No. 1774 of 1973

(G. L. Oza, M. P. Thakkar JJ)

06.02.1987

JUDGMENT

THAKKAR, J. –

1. The question arising in this appeal is with regard to the method of valuation of about 11,000 bighas of land settled on temporary patta for special cultivation in the State of Assam in the context of Section 9(1) [Section 9(1) : Subject to the provisions of Section 25, in the determination of the amount of the assessment proper for each estate the villages and the fields shall be classified and a fair rate per bigha shall be fixed for each class of land in each class of village :

> Provided that land settled or used for special cultivation may be assessed at a fair round rate per bigha.] of the Assam Land Revenue Resettlement Act, 1936. The settlement for special cultivation means settlement for a purpose which involves a large investment of capital per acre having regard to the process of cultivation as defined in Section 2(xii) [Section 2(xii) : 'Special cultivation' means cultivation which involves either owing to the nature of the crop or owing to the process of cultivation a much large expenditure of capital per acre than is incurred by most of the cultivators in the Province.] of the Act. Inasmuch as the land was settled for special cultivation within the meaning of the Act, proviso to Section 89(1) was invoked for the purpose of determining the assessment. The validity of the proviso has been challenged on the ground that it is unfair and that it violates Article 14 of the Constitution of India. The Assam High Court has negatived the challenge by its judgment under appeal dated July 4, 1973. In doing so the High Court has followed its own earlier decision in an earlier matter (Civil Rule No. 294/66) which was decided on September 20, 1968. Thus, in the State of Assam the High Court has considered this method of valuation as a reasonable method since about 1966. The question is whether the High Court was justified in taking this view and repelling the challenge made by the appellant in regard to the validity of the proviso. The proviso is attracted in either of the two contingencies, viz. :
>
> (1) When the land is expressly and explicitly settled for special cultivation.
>
> (2) Even when there is no such settlement, expressly for the purpose but even so the cultivator puts it to such use.

In the present case, we are concerned with land 'settled' for special cultivation in the sense that the settlement was made for raising tea and other crops which involved making of a large investment

per acre beyond the reach of an ordinary cultivator. That was the reason why the settlement for 'special cultivation' was made on the appellant which is a public limited comply. The proviso comes into play when either on account of the purpose for settlement or on account of its actual user for 'special cultivation' involving large scale operations involving a large per acre investment. The question then is whether the classification is unfair or discriminatory in the context of the fact that for assessment of such lands a departure is made from the ordinary mode of valuation by making "village-wise-field-wise" classification as contemplated by the section proper. The High Court has rightly concluded that the classification is founded on intelligible differential having a reasonable nexus with the objective of the provision. In the first place the flat rate method is the simplest, safest and most convenient method of assessment. Assessment of quality of land by its very nature is cumbersome and depends on the expertise of the assessor. The judgment of the assessor by its very nature would be subjective to some extent. With all the virtues of the flat rate method it cannot be applied without creating problems when assessment is required to be made of small fields belonging to different individuals in which different crops are grown depending on the quality of the particular piece of land. The yields may vary from field to field depending on one or more of the aforesaid factors. That is why the adoption of the simple flat rate method is not practicable and 'village-wise-field-wise' method has to be adopted. But this method can be conveniently adopted with all its advantages in case of lands settled or used for special cultivation. In the present case the extent of the land under assessment is about 11,000 bighas. It would be cumbersome and inconvenient to adopt the other method. It would not result in any unfairness for if some part of the land is better than the other parts by and large it would level out.

2. The rate of assessment fixed in 1927 was 10 annas (62.50 paise) per bigha whereas now some 40 years later it has been fixed at Rs. 1.70 per bigha taking into account the report made by the Director of Land Revenue after holding an enquiry. The High Court was right in taking the view that insofar as the main part of the section was concerned the classification had either to be by villages or by different classes of land in each village depending on its value for agricultural purposes. When a large block of land of 11,000 bighas was being settled for special cultivation involving large investment those considerations as regards the value of the parts of the land for different crops were not considered to be germane and the resort to the proviso was made by making assessment on the basis of fair all round rate per bigha. Taking an all round rate per bigha would even out the assessment applicable to lands which were superior in quality on the one hand and lands which were not so good on the other. Having regard to the facts and circumstances of the case the High Court was right in taking the view that the resort to the proviso was justified and that the proviso was not invalid. We see no justification for disturbing the order passed by the High Court. The appeal, therefore, fails and is dismissed. Interim orders are vacated. There will be no order as to costs.

</html