

M/S Bhagubhai Virajlal

Vs

State of Madhya Pradesh and Others

With

Ajanta Biri Leaves Co.

Vs

State of Madhya Pradesh and Others

Civil Appeal No. 1008 of 1980 with Civil Appeal No. 516 of 1978

17.09.1991

ORDER

1. The appellant entered into an agreement dated July 14, 1976 with the State of Madhya Pradesh for the purchase of tendu leaves from the government grown in a certain tract of land in the State on terms and conditions embodied therein. Under Madhya Pradesh Act 29 of 1964 and the rules made thereunder, regulating the trade of tendu leaves, the appellant was required to maintain a godown/depot for keeping of standard bags of tendu leaves, purchased by him on payment of full price to the government. The godown of the appellant was checked by the State officials in December 1976 and it was found to contain bundles far in excess than purchased from the government. The government in these circumstances declined to permit the appellant's removal of the standard bags of tendu leaves outside the godown till the price thereof had been made good. Challenging the said act of the government the appellant approached the High Court of Madhya Pradesh by means of a writ petition and to seek a restraint order against the government asking it not to demand the unpaid price of the excess tendu leaves. The prayers were declined.

2. On appeal by special leave before us, the learned counsel for the appellant has contended that the High Court was in error in dismissing the writ petition on the ground that the dispute had arisen out of a contract and it would have to settle disputed questions of fact for which a civil suit was more appropriate than the remedy chosen by the appellant under Article 226 of the Constitution. It has further been contended that the matter rested on the applicability of the law and the rules on the subject. We remain unimpressed by the argument. Under the Madhya Pradesh Act 29 of 1964 and the rules made thereunder there is a restriction on purchase or transport of tendu leaves by any person other than the State Government, an officer of the State Government authorised in writing in that behalf, and an agent in respect of the unit in which the leaves have grown. The aforesaid authorities are duty bound under Section 9 of the said Act to purchase tendu leaves offered for sale at the depot during fixed hours of business. The tendu leaves so purchased have to be kept in the depot/godown in terms and conditions of Section 8. They are disposable under Section 10 in such manner as the State Government may direct. The appellant claims that he is an agent appointed by the State Government under Section 4, but this fact is denied by the State. Whatever be his status, in no event could the quantity of tendu leaves be in excess than what are purported to have been purchased as reflected in the accounts. The discovery of excess bundles of tendu leaves in the

godown at the time when inspection was made would reasonably give rise to the suspicion that their entry therein was clandestine. On assertion of the appellant to the contrary, that it was not so, it was for him to establish his case for which adequate opportunity had been given by the State Government to the appellant. It is in this situation that the High Court, seemingly, left the matter to be settled in the civil court as there was no specific provision in the Act or the Rules to make a quasi-judicial decision in this respect. We do not thus find any cause to interfere with the decision of the High Court. In these circumstances, finding no merit in the appeal, we dismiss the same without any order as to costs.

Civil Appeal No. 516 of 1978.

3. For reasons recorded in Civil Appeal No. 1008 of 1980 this appeal too is dismissed subject to the clarification that for purposes of quantifying the number of bags of tendu leaves found at the godown of the appellant at the time of search, the number of bags as found in terms of the interim order of this Court dated November 27, 1978 be now sub-stituted. No costs.

</html