

Subhash Chandra Chaudhari and Others

Vs

Ram Milan and Others

Civil Appeal No. 694 of 1994

(K. Ramaswamy, G. T. Nanavati JJ)

31.01.1997

ORDER

1. Leave granted. We have heard learned counsel on both sides.
2. This appeal by special leave arises from the judgment dated 24-5-1996 passed by the High Court of Allahabad in WP No. 8654 of 1995.
3. The admitted position is that though lease was granted to the appellants on 5-12-1994 for one year and was executed, as admitted by the respondents, on the said date, it expired on 5-12-1995. It is contended that the lease granted to the appellants was cancelled by the Commissioner on 17-2-1995 and on a revision filed by the appellants to the State Government, by order dated 23-3-1995, the order of the Commissioner was set aside. But unfortunately the operation of the order of the Government was stayed by the High Court on 21-5-1995 and it set aside the order of the Government by the impugned order. It is not in dispute that pursuant to the direction of the High Court the auctions were conducted and third parties have been inducted to work out the excavation of the sand; but they are not before us. Though there is some force in the argument of the learned counsel for the appellants that since the working of the period of the lease granted to the appellants was not allowed to be fully utilised on account of the orders passed by the courts or the Commissioner, the time may be extended for the appellants to execute the lease and work out the lease for the residue period. As stated earlier, since the third party rights have already been intervened, in their absence we cannot give the direction as sought for. Under these circumstances, it is stated in the affidavit itself that the respondent Government have offered refund of the amount deposited by the appellants as directed by the High Court. The respondents are directed to refund the amount of Rs. 6,30,000.
4. We are constrained to dismiss the appeal. No costs.