

SUPREME COURT OF INDIA

M.P. Rajya Sahkari Bank Maryadi

Vs.

Indian Coffee Workers' Co-operative Society Ltd.

C.A.Nos.5201-5202 of 2002

(Syed Shah Mohammed Quadri and S.N. Variava JJ.)

23.8.2002

JUDGMENT

S.N. Variava, J.

1. Leave granted.
2. Heard parties.
3. These appeals are against an order dated 8th March, 2002 by which Letters Patent Appeals filed by the appellant have been dismissed.
4. Briefly stated the facts are as follows:

5. On 14th of May, 1985, the appellant was sanctioned a lease of an area measuring 47,297 sq. ft. out of Nazul Sheet No. 8, Plot No. 66, Huzur, Bhopal. The said plot was to be used for cycle and motor parking. However by a letter dated 30th May, 1985, the user of the plot was changed to "auditorium construction". Pursuant to this allotment an Indenture of Lease dated 17th December, 1985 was entered. The Schedule of the property in the Indenture of lease reads as follows:

"The Schedule Aabove Referred to North:- Plot of Indian Coffee House, South:- Building of Apex Bank, East :- Road, West :- Road."

Thus the the Schedule shows that to the north of the plot, allotted to the appellant, was the plot belonging to Indian Coffee Board. Possession of 47.297 sq. ft. was handed over to the appellant in January, 1986. As the auditorium was not constructed by the appellant within the time permitted the land was resumed by the Government by an order dated 29th July, 1993.

6. On 27th May, 1986, the 1st respondent was given a lease of land measuring 7153 sq. ft. This was also out of Nazul Sheet No. 8, Plot No. 66, Huzur, Bhopal. This lease was

cancelled by an Order dated 25th June, 1994. The 1st respondent, therefore, filed a writ petition on 27th of June, 1994. In that writ petition an interim order, staying cancellation, was passed on 8th July, 1994.

7. In the mean time the appellant had made representations. Pursuant thereto the State Government agreed to hand back the land to the appellant. The relevant portion of the letter dated 23rd November, 1994 reads as follows:-

"The M.P. State Co-op. Bank, Bhopal was allotted 47,292 sq. ft. of land bearing nazul sheet No. 8, plot No. 66 in the Capital Project Area by order No. 6-183/Eight/79 dated 14.5.1985 of the Revenue Department, Govt. of Madhya Pradesh on general conditions by charging premium amount of Rs., 6,66,887/- and annual lease rent of Rs. 50,016.59 by order No. 6-52/Seven/S-2B/93 dated 29.7.1993 of the department cancelling the allotment order dated 14.5.1985 of the said land orders were passed to resume this land.

Now the State Government after full consideration cancelling the order No. 6-52/Seven/2B/93 dated 29.7.1993 and holding the order No. 6/183/Eight/79 dated 16.3.1985 as valid has decided that the balance amount of the premium amount of Rs. 6,66,887/- and lease rent amount of Rs. 50,016.59 to be charged from the institution by the allotment order dated 14.5.1985 by got deposited according to the rules and the possession of the aforesaid land and the permission to construct the building on the terms prescribed earlier be given along with the following special terms:-

1. That out of the land in question on the main road New Market Roshanpura-M.A.C.T. and the land of Apex Bank adjoining thereto abreast the alignment of the road, the bank would have to return a 15 feet wide strip to the Government free of cost, which would be used for parking of the cars and the scooters. The fencing or any other construction on some part thereof shall be removed by the allottee at his own cost within 15 days of this order and shall have to hand over its possession to the Collector, Bhopal.

2. That on 1.25 acres of land in question M.P. State Co-op. Bank in the interest and for the use of the agriculturists complying with the rules of the Municipal Corporation, Urban and Rural Investment Department and other local bodies shall construct the auditorium and the library in such a way that the entire space in the basement and on the ground floor is reserved for the car parking. The other construction would be made on the first floor and above that and at the same time in the present bank premises adequate space would be left and reserved for proper parking and other conveniences for the bank staff, persons visiting there and for the use of the general public. In the parking lot separate gates for entry and exit would be made in such a way that no hindrance is caused therefrom to the general traffic on any of the roads in the area."

8. The writ petition filed by the 1st respondent was allowed on 16th April, 1999. The State Government was directed to restore possession of 7153 sq. ft. to the 1st respondent. Thereafter when the 1st respondent applied for sanction of building plans, they were permitted to construct only upto 30% of the lease area. They therefore filed a Review Petition. This Review Petition came to be allowed on 5th August, 1999. The State Government filed L.P.A. No. 283 of 1999 against the Orders dated 16th April, 1999 and 5th August, 1994.

9. The appellant also filed Letters Patent Appeal No. 466 of 1999 against the Orders dated 16th April, 1999 and 5th August, 1999. The appellants claimed that they were not parties to the writ petition filed by the 1st respondent and that the said orders had affected their rights. The appellants claimed that the 7153 sq. ft., directed to be given to the 1st respondent, was out of the land allotted to them by the State Government. Both the Letters Patent Appeals came to be dismissed by the common Judgment dated 8th March, 2000.

10. Mr. Sushil Kumar Jain submitted that the High Court could not have directed the State Government to allot land which has already been allotted to the appellant. He submitted that the allotment in favour of the appellant had been made as far back in 1985. He pointed out that though the land had been resumed in 1986, it had been restored in 1994. He submitted that the appellant was a necessary party to the writ petition filed by the 1st respondent. He submitted that in the absence of the appellant no order could have been passed which prejudicially affected their rights. Mr. Jain submitted that the Division Bench was wrong in dismissing the appeal filed by the appellant.

11. We see no substance in the submission made by Mr. Jain. The State Government has filed an affidavit. They also annexed thereto a plan of the area. From the affidavit as well as the plan, it is clear that 47,297 sq. ft. allotted to the appellant is different from 7153 sq. ft. allotted to the 1st respondent. The two plots of land are adjoining pieces of land. The Schedule to the Lease Deed of the appellant also shows that on the north side of the plot of land allotted to the appellant there is a plot allotted to Indian Coffee House.

12. Faced with this situation, Mr. Jain submitted that what was reallocated to the appellant, on 23rd November, 1994, was 1.25 acres viz. 54,450 sq. ft. In support of this he relied upon Clause 2 of the letter dated 23rd November, 1994 (which has been reproduced hereinabove). We are unable to accept this submission. The first part of the letter dated 23rd November, 1994 clearly states that 47,297 sq. ft. had been allotted earlier. By this letter the land earlier allotted to them is being re-granted. On a plain reading of the letter, it is clear the 1.25 acres have been mentioned (in para 2) by mistake. The State Government in their affidavit has also clarified that the figure "1.25 acre" was mentioned by mistake. The appellant is trying to take advantage of this mistake in order to claim 54,450 sq. ft. of land when all that is allotted to them is 47,297 sq. ft. They cannot be permitted to do.

13. It is clear that the land allotted to the 1st respondent is different from the land allotted to the appellant. The appellant can thus have no grievance. There is no substance in these

appeals. Accordingly the appeals stand dismissed. However, there will be no order as to costs.