

STATE OF MADHYA PRADESH AND ORS.

v.

M/S. KRISHNADAS TIKARAM

SEPTEMBER 21, 1994

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Forest Conservation Act, 1980 : Sections 2 and 3.

Mining Lease—Renewal by State Government—Where approval of State Government was not obtained directions by High Court to grant renewal held not justified.

The respondent was granted mining lease to extract limestone in the forest area. Subsequently, the Forest Conservation Act, 1980 came into force under which grant or renewal of lease by State Government was to be made with the prior approval of the Central Government. After expiry of the lease, the respondent applied for further renewal which was granted but later it was cancelled because it was objected to by the Forest Department. The respondent approached the High Court which directed grant of renewal.

In appeal to this Court, it was contended that the renewal of the lease cannot be granted without the prior concurrence of the Central Government.

Allowing the appeal, this Court

HELD : 1. The High Court was not right in directing grant of renewal of the lease. The grant or renewal is a fresh grant and must be made consistent with law. Section 2 of the Forest Conservation Act 1980 prohibited the grant or renewal. In case the State Government decides to grant fresh lease or renewal of the lease it is mandatory that it should obtain prior approval of the Central Government. Admittedly, no such prior approval was obtained. The State Government thus had realised the mistake in directing renewal when the Forest Department had objected to the renewal of the lease. Therefore, the cancellation of the renewal order was properly made by the State Government. [749-C, A-B]

State of Bihar v. Banshi Ram Modi and Ors., A.I.R. (1985) S.C. 814;

- A *Rural litigation and Entitlement Kendra v. State of U.P.*, A.I.R. (1988) SC 2187 and *Ambica Quarry Works etc. v. State of Gujarat and Ors.*, A.I.R. (1987) SC 1073, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3276 of 1990.

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From the Judgment and Order dated 18.8.89 of the Madhya Pradesh High Court in Misc. P.No. 2758 of 1989.

B.Y. Kulkarni and S.K. Agnihotri (N.P.) for the Appellants.

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Ghansham Das Gupta for (NP) for the Respondent

The following Order of the Court was delivered :

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The respondent was initially granted Mining lease in the year 1966 for a period of 20 years to extract limestone in the forest area. The Forest (Conservation) Act 69 of 1980 has come into force with effect from 25.10.80. Under Section 2 of the Act grant or renewal after the Act has come into force shall be made, in the event of the State Government deciding to grant lease or renewal, with the prior approval of the Central Government. The object of the Act is to maintain ecology and preservation of the forest. It is also the object under Section 3 to regenerate the forests by planting trees and the forest growth. In 1986 after the expiry of the lease the respondent had approached the Government for renewal. Though the Government had taken the decision and passed an order on February 7, 1986 to grant further renewal for a period of 20 years in terms of the original grant, it was objected to by the Forest Department. Consequently it was cancelled. The respondent had approached the High Court in Miscellaneous Petition No. 2758 of 89 and the Division Bench by its order dated August 18, 1989 following the ratio in *State of Bihar v. Banshi Ram Modi and Others*, (A.I.R. 1985 S.C. 814) directed to grant renewal on the ground that the part of the leased area had already been broken and, therefore, renewal should be granted.

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The appellant contends that this Court in *Rural Litigation and Entitlement Kendra v. State of U.P.*, (A.I.R. 1988 SC 2187) and *Ambica Quarry Works etc. v. State of Gujarat and Others*, (A.I.R. 1987 SC 1073) had held that even the renewal of the lease cannot be granted without the prior occurrence of the Central Government. We find force in the contention. It

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is settled law that the grant or renewal is a fresh grant and must be made consistent with law. Section 2 prohibited the grant or renewal. In case the State Government decides to grant fresh lease or renewal of the lease it is mandatory that it should obtain prior approval of the Central Government. Admittedly, no prior approval of the Central Government had been obtained under Section 2 of the Act. The State Government thus had realised the mistake in directing renewal when the Forest Department had objected to the renewal of the lease in favour of the respondent". Therefore, the cancellation of the order, before it came into effect by registering, had been properly made by the appellant. The High Court was, therefore, not right in directing grant of renewal of the lease. A B

It is brought to our notice that under contempt proceedings the lease deed was directed to be registered and it was accordingly registered. It is declared that the registration is illegal and is invalid. C

The appeal is accordingly allowed. No costs.

T.N.A.

Appeal allowed.