(1968) 09 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 402 of 1966

Gwalior Red Chalk Corporation, Partnership firm Lashkar, Gwalior	APPELLANT
Vs	
Additional Tahsildar, Pargana Gird, Gwalior, Madhya Pradesh and Another	RESPONDENT

Date of Decision : 11-09-1968

Acts Referred:
Mines and Minerals (Development and Regulation) Act, 1957 — Section 25

Citation : AIR 1969 MP 48 : (1969) JLJ 155 : (1968) 13 MPLJ 919 : (1968) MPLJ 919

Hon'ble Judges : P.V. Dixit, C.J;G.P. Singh, J

Bench : Division Bench

Advocate : R.S. Dabir, for the Appellant; Rama Gupta, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Singh, J.

The petitioner, which is a firm consisting of four partners, took a mining lease for a period of three years from the erstwhile State of Gwalior in the year 1947. By a notice issued on 12th November 1965, u/s 146 of the Madhya Pradesh Land Revenue Code, 1959 the petitioner was called upon by the Additional Tahsildar, Gwalior to deposit Rs. 20,290.84 paise towards the dues in respect of the aforesaid mining lease within four days from the receipt of the notice. This notice also intimated the petitioner that in case of default the amount due will be recovered as an arrear of land revenue. The petitioner by this petition under Article 226 of the Constitution challenges this notice on the ground that the mining lease did not contain any term that the amount due under it, will be recoverable as an arrear of land revenue and therefore the threatened recovery proceedings are in excess of jurisdiction of the revenue authorities. In reply to the Writ Petition, the State does not deny that the mining lease did not contain any condition enabling recovery of the sums due under it as arrears of land revenue. The recovery proceedings are, however, supported on the basis of Section 25 of the Mines and Minerals (Regulation and Development) Act, 1957. In answer to the stand taken by the State, the learned counsel for the petitioner contends that Section 25 is not retrospective and does not apply to a mining lease executed prior to or to any sum falling due before the coming into force of the Act.

The question raised in this petition thus pertains to the construction of Section 25 of the Mines and Minerals (Regulation and Development) Act, 1957 which reads as follows:

"Section 25. Any rent, royalty, tax, fee or other sum due to the Government under this Act or the rules made thereunder or under the terms and conditions of any prospecting licence or mining lease, may on a certificate of such officer as may be specified by State Government in this behalf by general or special order, be recovered in the same manner as an arrear of land revenue."

The first part of the section relates to recovery of "any rent, royalty, tax, fee or other sum due to the Government under this Act or the Rules made thereunder". This is clearly prospective and refers to sums falling due after the operation of the Act or the Rules, for a sum cannot become due under an Act or Rules made thereunder unless the Act or Rule, as the case may be, has come into force.

The second part of the section relates to recovery of "any rent, royalty tax, fee or other sum due to the Government under the terms and conditions of any prospecting licence or mining lease." There is no reason to restrict this part of the section to mining leases executed or sums falling due after the coming into force of the Act. The word ''due'' merely means ''payable'' without reference to any time and is not limited to rent etc. falling due in future. The section does not create any liability but provides a procedure for enforcing liability and being a procedural section, will enable recovery after corning into force of the Act of any rent, royalty or other sum due under any prospecting licence or mining lease in the same manner as an arrear of land revenue irrespective of whether the sum to be recovered became payable prior to or after the coming into force of the Act. This construction is supported by the decision of the Supreme Court in Memon Abdul Karim Haji Tayab Vs. Deputy Custodian General, New Delhi and Others, where the Court considered section 48 of the Administration of Evacuee Property Act, 1950 as amended by Act 91 of 1956. The amended Section 48 makes any sum payable to the Government or to the Custodian in respect of any evacuee property, under any agreement, express or implied, lease or other document, recoverable as an arrear of land revenue. The Supreme Court held that the amended section 48 was procedural and applied even for recovery of such claims which arose before the amended section was inserted in the Act.

Applying the same reasoning, it must be held that the mode of recovery as an arrear of land revenue prescribed by Section 25 of the Mines and Minerals

(Regulation and Development) Act, 1957 can be applied for recovering any rent, royalty or other sum due to the Government under the terms and conditions of any prospecting licence or mining lease whether the sum to be recovered became due before or after the coming into force of the Act. The question whether the section applies to sums payable under a mining lease executed prior to the coming into force of the Act was also examined by this Court in Veljee Chawra v. State of M. P., Misc. Petn. No. 384 of 1964 D/- 18-11-1964 (MP) and was answered in the affirmative. In our opinion, Section 25 of the Mines and Minerals (Regulation and Development) Act, 1957 enables the Government to recover any sum due under a mining lease as an arrear of land revenue irrespective of whether the sum became due or the mining lease was executed prior to or after coming into force of the Act.

The petition fails and is dismissed with costs, Counsel''s fee Rs. 150/-. The outstanding amount of security deposit shall be refunded to the petitioner.