
(1977) 09 RAJ CK 0006
In the Rajasthan High Court
Case No : Civil Writ Petition No. 145/72

Ram Singh

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-09-1977

Acts Referred:

Constitution of India, 1950 — Article 299

Citation : (1977) WLN 370

Hon'ble Judges : M.L. Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.L. Jain, J.—The facts of this writ petition are that the respondents accorded a sanction of mining; lease for building stone in favour of the petitioner on 25-3-1958. The dead rent was of Rs. 4501/- and royalties were to be charged as stated in the order of sanction. The mining lease was for the period from 1-4-1958 to 3-3-1960. Besides, the petitioner was required to pay surface rent and all taxes as per the Government Rules. The petitioner deposited Rs. 1125/- of the first installment and Rs. 1125/- towards security. No lease deed was executed. The petitioner contends that he was not given the possession of the mines. By his order dated 5-5-1959, the Director of Mines and Geology, however, cancelled the lease on the ground that the petitioner failed to deposit the due installments as stipulated in the agreement. Thereafter, the Department of Mines and Geology sent a certificate of recovery on 27-1-1960 of the recovery of Rs. 3,945/60 under the Rajasthan Public Demand Recovery Act to the SDO Jodhpur. Upon receipt of the notice, the petitioner submitted a petition denying his liability upon which the proceedings were dropped on 24-11-1961. A fresh requisition certificate was sent by the Mining Engineer, Jodhpur on 4-9-70, to the Assistant Mining Engineer (Recovery) Bikaner, u/s 256 of the Rajasthan Laid Revenue Act, 1956. This certificate was transferred by the said Assistant Mining Engineer to the Assistant Mining Engineer (Recovery), Jodhpur. The petitioner submitted his

objections before the respondent that the recovery having once been dropped cannot be recommenced and that no recovery can be made under the Rajasthan Land Revenue Act, 1956, in the absence of the agreement. The objections were rejected on 15-11-1971. The petitioner now prays for a writ of certiorari to quash the recovery proceedings and for mandamus and prohibition to restrain the respondents from recovery of the aforesaid amount and to return Rs. 2250/- paid by him.

2. In reply, the respondents submitted that the petitioner had signed an agreement on 8-5-1958 but the same was not signed by the Director of Mines and Geology as the petitioner failed to deposit the amounts due. There were certain other deficiencies also. The Department also stated that the area was previously held by the petitioner. He was in continuous possession of the area and has also worked some quarries therein as was disclosed in his letter dated 9-5-1958 in which he protested that he established some quarries but a Railway Contractor was also working in the same area without his permission and was collecting ballast. He requested on 27-4-59 that his contract may be terminated right from 1-4-58. But the Director cancelled the lease because the petitioner failed to make the due payments. That is how the recovery came to be effected. The learned Dy. Government Advocate submitted further that the petitioner had a remedy u/s 257B of the Land Revenue Act 1956) by way of a suit and therefore, the writ petition was liable to dismissal.

3. I have heard arguments. The learned Counsel for the petitioner contends that according to the said Act, Section 256, Clause (e), only such sums of money can be recovered thereunder which are due to the State Government under any grant, lease or contract which provides that they shall be recoverable as arrears of revenue or land revenue. The learned Dy. Government Advocate says on the other hand, that the petitioner has been in possession of the area for one year under the alleged order of sanction which is a grant, R. 55 of the Minor Mineral Concession Rules, 1959, declared that the Govt. may recover any dues in respect of dead rent, surface rent, royalty & value of minerals as arrears of land revenue under the law in force relating to such recovery. It is, therefore, not necessary to provide in the grant that any sum due thereunder shall be recoverable as arrears of revenue or land revenue. It is by virtue of this rule implied in every sanction. This contention of the State has considerable force. Besides, Clause (a) of Section 256 also provides that any sum payable by any law for the time being in force to be recoverable or realisable as an arrear of revenue or land revenue or rent can be recovered u/s 256. Clause (d) of the section further provides that all rents, rates and royalties due to the State Government on account of the use or occupation of land or on account of any products thereof or proceeds therefrom or on any other account are also recoverable as such. The amount which was due w.e.f. 1-4-58 to the date of cancellation was therefore recoverable under the Land Revenue Act, even if there was no agreement or lease duly executed in the manner provided under Article 299 of the Constitution. The contention of the petitioner deserves to be rejected. Moreover, Section 257B of the said Act lays

down that the petitioner can make the payment under protest and then can file a suit. The petitioner could have also made an application for revision under Rule 60 to the State Government as provided in Sub-section (4) of Section 257B. This alternative remedy was also available to the petitioner. In view of the position as stated above, I see no force in this writ petition and it is hereby dismissed but without any order as to costs.