

(1995) 02 AHC CK 0060

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 17976 of 1991

Shyam Bahadur Singh

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 02-02-1995

Acts Referred:

Constitution of India, 1950 — Article 14

Uttar Pradesh Tendu Patta (Vyapar Viniyaman) Adhiniyam, 1972 — Section 5(3)

Citation : (1995) 02 AHC CK 0060

Hon'ble Judges : P.K.Mukherjee, J and B.M.Lal, J

Final Decision : Allowed

Judgement

1. By this petition the petitioner seeks a writ order of direction in the nature of mandamus commanding the respondents not to realize or compel the petitioner to deposit any tax on the movement of Tendu leaves from the State of Madhya Pradesh to the State of Uttar Pradesh on the basis of the provisions of subsection (3) of Section 5 of the U. P. Tendu Patta (Vyapar Viniyaman) Niyamawali, 1972 (hereinafter referred to as the Niyamawali).

2. Shri U. S. Awasthi, learned counsel appearing for the petitioner, submits that the Us involved in this petition is covered by a decision of this Court rendered in Writ Petition No. 10 of 1980 (Tax), M/s. Mohanlal Hargovind Dass and another v. The State of U. P., Lucknow and others, whereby the provisions of subsection (3) of Section 5 of the Niyamawali have been declared as ultra vires of Article 14 of the Constitution.

3. This being so the petitioner is entitled to the reliefs sought for by him in view of the aforesaid decision of this Court rendered in M/s, Mohanlal Hargovind Dass (supra).

4. For the reasons stated above, this petition is allowed.

Potion allowed,