

(1964) 02 MP CK 0011
In the Madhya Pradesh High Court
Case No : First Appeal No. 6 of 1961

State of Madhya Pradesh

APPELLANT

Vs

Syed Akbar Ali Syed Ahmad Ali

RESPONDENT

Date of Decision : 07-02-1964

Acts Referred:

States Reorganisation Act, 1956 — Section 10, 2, 82, 83, 84

Citation : AIR 1964 MP 213 : (1964) MPLJ 854

Hon'ble Judges : V.R. Nevaskar, J;P.R. Sharma, J

Bench : Division Bench

Advocate : S.T. Mungre, for the Appellant; G.P. Patankar, for the Respondent

Final Decision : Dismissed

Judgement

Sharma, J.

This appeal has been preferred by the State Government against the judgment and decree dated the 28th of October, 1960 passed in favour of the respondent by, the Addl. District Judge Guna, in Civil Suit No. 4 of 1960 of his Court.

The plaintiff entered into a contract with the Divisional Forest Officer of Rajasthan State for preparing "kattha" from the forest trees in Sironj subdivision and deposited a sum of Rs. 5130/- by way of cash security in the Rajasthan State Treasury. The Sironj sub-division was, on the passing of the States Reorganisation Act, 1956 transferred to the State of Madhya Pradesh. The plaintiff, therefore, deposited the monies payable under the contract in the office of the Divisional Forest Officer Guna and carried on the work of preparing "kattha" as originally agreed between himself and the State of Rajasthan. On the completion of the contract he demanded refund of the amount of Rs. 5130/- deposited as cash security. The State of Madhya Pradesh declined to pay this amount; stating that it had not received the same from the State of Rajasthan. Hence the suit which was contested on the grounds (1) that the Rajasthan State was a necessary party to the suit, (2) that the defendant could not be made

liable to pay the amount claimed, until the State of Rajasthan made payment of the same to the defendant, and (3) that the Court at Guna had no jurisdiction to try the suit.

The trial Court held that by virtue of the provisions of Section 87 of the States Reorganisation Act, 1956 the original contract, which was entered into on behalf of the Rajasthan State, would, after the States Reorganisation Act came into force, be deemed to have been made by the State of Madhya Pradesh; with the result that the State of Rajasthan was not a necessary party to the suit--all its rights and liabilities under the contract having become the rights and liabilities of the successor State of Madhya Pradesh. The contract having been worked out, after the State Reorganisation, as between the Divisional Forest Officer Guna and the present plaintiff, the suit was held to be within the jurisdiction of the Civil Court at Guna. The trial Court, therefore, decreed the claim of the plaintiff for refund of the principal amount claimed, but passed only a conditional decree in respect of the plaintiff's claim for interest. The State Government has now come up in appeal before this Court.

In support of this appeal it was argued by the learned Government Advocate that the trial Court erred in not applying its mind to the provisions of Section 84 of the States Reorganisation Act, 1956 which run as under :

"84. The liability of an existing State in respect of any civil deposit or local fund deposit shall, as from the appointed day be the liability of the successor State in whose area the deposit has been made." It would appear that Section 84 deals with deposits made otherwise than in pursuance of a contract. Sections 82 to 86 relate to liabilities arising otherwise than under contracts entered into between an existing state and a private citizen. The rights and liabilities under any subsisting contracts and outstanding liabilities in respect of actionable wrongs are specially dealt with in Sections 87 and 88 of the States Reorganisation Act, I am, therefore, of the opinion that Section 84 of the Act has no application to the present case.

Section 87 clearly lays down that where before the appointed day an existing State has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power of the successor State, in a case where there is only one successor State. The result would be that by a legal fiction the State of Madhya Pradesh is substituted as a party to the present contract from the point of time when the contract was made on behalf of the Stat of Rajasthan. It was not disputed before us that the area in which the contract was to be performed has fallen entirely within the territories of the State of Madhya Pradesh. It is further admitted that the monies payable under the contract were deposited by the plaintiff in the office of the Divisional Forest Officer Guna. In this context it appears to be clear that all the rights and liabilities which had accrued under the contract before the appointed day, have thereafter become the rights and liabilities of the State of Madhya Pradesh.

5a. We do not, therefore, see any substance in this appeal. It is hereby dismissed with costs. Counsel's fee according to scale or as certified whichever is less.

V.R. Newaskar, J.

I agree that by reason of Section 87 of the States Reorganisation Act, 1956, the liability of the successor State of Madhya Pradesh to discharge the liability with reference to the forest contract in respect of the forest situated in Sironj Sub-Division, which was formerly included in the "Zalawad Division" of Rajasthan State but which on the passing of the States Reorganisation Act of 1958 had been included in the State of Madhya Pradesh as forming part of Guna Division, would become the liability of the State of Madhya Pradesh. Section 84 of the Act deals with the case of Civil Deposits. It provides:

"The liability of an existing State in respect of any Civil deposit or local fund deposit shall, as from the appointed day, be the liability of the successor State in whose area the deposit has been made."

It may be that the deposit made by the plaintiff can fall in the category of Civil deposit and the liability of the deposittee State may also arise by reason of the very wide language used in the section but that does not exclude the liability which is created by Section 87. All that it will mean is that the depositor may either go to the existing deposittee State and claim back the deposit u/s 84 or may go to the successor State and claim back the deposit on performance of the contract which had at least partly been performed after the Sironj Sub-Division had been included in the successor State on the strength of Section 87. There are no words in either section 87 or section 84 to exclude the liability of the Successor State with reference to a contract regarding deposits made in the existing State. After the plaintiff is given his dues it is open for the two States to adjust their mutual rights and obligations. The plaintiff ought not to be made to go from post to pillar for this.

I would, therefore, agree that the appeal ought to be dismissed with costs.