

(1973) 01 AHC CK 0049
In the Allahabad High Court
Case No : Sp. A. No. 228 of 1970

State of U.P. and others

APPELLANT

Vs

Babu Lal and others

RESPONDENT

Date of Decision : 03-01-1973

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 6, 7(a)
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 6, 7(a)
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 6, 7(a)

Citation : (1973) 43 AWR 217

Hon'ble Judges : Satish Chandra, J;P.N. Bakshi, J

Bench : Division Bench

Advocate : S.N. Upadhyaa, for the Appellant; V.K.S. Chaudhry, for the Respondent

Final Decision : Allowed

Judgement

Satish Chandra, J.—On 16-6-1948 Praduma Narain Singh, the Zamindar executed a lease in favour of the Respondent Babu Lal in respect of plot No. 1242 and 1569 (area about 54 big-has) for the purpose of carrying on agricultural operation and quarrying stones and ballast from there. The Respondents' case is that he entered into possession of the plots and continued to pay the agreed rent to the Zamindar and after the abolition of Zamindari, to the State. In accordance with the terms of the lease he quarried stones from the plots. It appears that after the abolition of the Zamindari, the State Government passed an order directing the revenue authorities to report whether mining operations were being carried out or any stones etc. excavated from any plot in the district. The Tahsildar of Manjhanpur in the district of Allahabad where these aforesaid plots were situate, reported that these plots constituted a hillock and that the Respondent Babu Lal who was recorded as sirdar of the plots, instead of putting the land to agricultural use, was excavating mineral, stones, etc. from it. Thereupon, the Land Reforms Officer, Allahabad passed an order directing the Tahsildar to auction the quarries in the holding of the tenure holders including

the Respondent. The Tahsildar fixed 14-3-1964 for auction of the quarries. Thereupon, the Respondent came to this Court Under Article 226 of the Constitution with a prayer that the authorities be directed not to auction any mineral rights from the plots in dispute and not to interfere with the Petitioner taking stones or working the quarry as hitherto before.

2. The State as well as the Tahsildar contested the writ petition. Their case inter alia was that under the settlement which took place in 1321 F. the Zamindar had entered into an agreement with the State Government under which it was clearly declared that the mineral rights were reserved to the State Government. As such, the Zamindar had no rights in the minerals in the plots and he could not transfer any valid title to the minerals situate in these plots to the Respondent Babu Lal. The lease in favour of the Respondent in so far as it related to minerals was void.

3. The learned single Judge, held that settlement agreement related to the period ending with 1352 F, No material has been furnished by the authorities to show as to what was done after the expiry of that period. There being no evidence that rights in the minerals were retained by the State under the subsequent settlement, the Zamindars of the village cannot be said to have bound themselves by the terms of 1321 F. In the year 1948 when the lease in question was executed under the lease and whereby right of quarrying the stones was expressly granted to Babu Lal Respondent. The U.P. Tenancy Act 1939 did not bar the grant of a lease to quarry stones. The lease in favour of the Respondent was hence valid. If the State Government was of the view that the provisions contained in Sections 107 and 108 of the ZA and LR Act were not complied with, it was open to it to take action under them but it had no right to straight away auction the stone quarry. The various other submissions raised on behalf of the State authorities were repelled and the writ petition was allowed. The authorities were directed not to auction any mineral right of the Respondent in the disputed plots unless they have taken steps to extinguish his rights in those plots.

4. Aggrieved, the State as well as the Tahsildar have come up in appeal. The settlement agreement clearly states that all rights in respect of minerals were reserved with the State Government. The agreement was to remain in force from 1323 F. till 1352 F. and thereafter till the next settlement. There is no allegation by either party that a fresh settlement took place after 1352 F. There is no allegation on behalf of the Respondent that the rights of the Zamindar were varied in any" respect subsequent to the agreement entered into by him during the course of the settlement of 1321 F. In these state of the matters, it cannot be inferred that a settlement must have taken place subsequent to 1352 F. We are unable to sustain the finding of the learned judge upon this point. The agreement was to remain in force not only upto 1352 F. but thereafter till the next settlement. There being no averment that any settlement took place thereafter, the agreement of 1321 F. will be deemed to have remained in

operation, till the Zamindari was abolished in 1952. In 1942 when the Zamindar executed the lease in question in favour of the Respondent Babu Lal, he was bound by the settlement agreement. Under that agreement, the zamindar had no rights in the minerals in the land in dispute. He, having no such rights, could not validly transfer any interest in the mineral to the Respondent under the lease. The Respondent hence did not acquire any right to quarry stones in the plots. He could only put the plots to agricultural use.

5. u/s 6 of the ZA and LR Act, all rights, title and interest of all the intermediaries extinguished and the land vested in the State free from all incumbrances. u/s 7 me right to continue to work any mines compared in any estate acquired by the State were to be governed by the law for the time being in force. This saving was applicable to mining right acquired by a person lawfully. If the right to work the mines was not lawfully acquired, the person who was in fact working the mines illegally could not lawfully claim to have a right to continue to do so Clause (a) of Section 7 will not aid a person illegally working any mines. The Respondent did HOI acquire any right to work any mines. He could not with the kid of Section 7(a) continue to do so validly. Since the Respondent Babu Lal had no right to in the minerals situate in the plots " in dispute, he could not validly ask this Court to restraint the authorities from auctioning the mineral rights, a right which inhered in the State, under the Mines and Minerals Regulation and Development Act, 1957 read with Mines Minerals Concessions Rules, 1963.

6. In the result, the appeal succeeds and is allowed. The judgment of the learned single Judge is set aside and the writ petition is dismissed with costs.