

[Reserved]

Court No. - 3

Case :- WRIT - C No. - 8818 of 2023

Petitioner :- Eikon Sugar Mills Pvt. Ltd. Delhi Thru. Authorised Signatory Shri Paramhans Singh

Respondent :- State Of U.P. Thru. Prin. Secy. (Cane Development And Sugar Industry) U.P. Govt. And Others

Counsel for Petitioner :- Karunanidhi Yadav,Radhika Singh

Counsel for Respondent :- C.S.C.,Sanjeev Singh,Sudhanshu Chauhan

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

1. Heard Sri Prashant Chandra, learned Senior Advocate assisted by Sri Karunanidhi Yadav and Ms. Radhika Singh, learned counsel for petitioner, Sri Sudhanshu Chauhan, learned counsel for respondents No. 2 and 3, and learned Standing Counsel for the State.

2. Present Writ petition has been filed challenging the order dated 16.08.2023 passed by respondent No. 5, Chief Revenue Officer, Deoria whereby owners of different plots, including the petitioner are asked to submit evidence of their ownership over enlisted plots before the Respondent No. 5 on or by 23.08.2023. Petitioner has prayed for the following reliefs:

a) Issue a writ, order or direction in the nature of CERTIORARI quashing the impugned order dated 16.08.2003 (annexure 1 to the writ petition) passed by respondent No. 5;

b) Issue a writ, order or direction in the nature of MANDAMUS commanding the respondents not to give effect to the order dated 16 8 2023 passed by respondent no. 5 contained in annexure no. 1 to the writ petition and not to interfere in peaceful possession in respect of the Deoria Sugar Unit.

c) Issue any other appropriate writ, order or direction which this Hon'ble Court may deem just and necessary in the circumstances of the case may also be passed; and

d) To allow the writ petition with costs.

3. Brief facts of the case are that the petitioner is a Special Purpose Vehicle,

incorporated under the Companies Act, 1956, with its registered office at Laxmi Nagar, Delhi. Petitioner SPV was created to acquire a closed sugar mill in District Deoria. The closed Sugar Mill in Deoria was owned by Uttar Pradesh Rajya Chini Avam Ganna Vikas Nigam Limited, a State Corporation. On 28.03.2011 a sale-deed was executed and right, interest and title in the Deoria Sugar Mill were transferred in favour of the petitioner. The sale of state-owned sugar mills was done in pursuance of Sections 3A, 3B, 3C, 3D and 3E of Uttar Pradesh Sugar Undertakings (Acquisition) Act, 1971 (for brevity hereinafter referred to as 'the Act of 1971') which allowed the State to divest its holdings from State-owned Sugar Mills. The aforesaid sections were challenged in two different Writ Petitions bearing ***Civil Misc. Writ Petition No. 47934 of 2008 (Rajiv Kumar Mishra vs State of U.P. and Others)*** and ***Civil Misc. Writ Petition No. 39850 of 2009 (Chini Mill Karamchari Sangh vs State of U.P and others)*** before this Court at Allahabad. This Court by its judgment and order dated ***01.04.2010*** partly allowed both of the aforesaid petitions and struck down Section 3C and 3D of the the Act of 1971 to the extent it allowed the State to shut down its Sugar Mills. Against the judgment dated 01.04.2010 of this Court at Allahabad, petitioner Rajiv Kumar Mishra filed a special Leave to Appeal bearing number ***Special Leave to Appeal (Civil) No. 16362 of 2010 (Rajiv Kumar Mishra vs State of U.P. and Ors)*** before the Supreme Court. State of U.P. also preferred a Special Leave to Appeal bearing No. ***Civil Appeal No. 8198-8199 of 2010 (State of U.P. vs Chini Mill Karamchari Sangh and Others)*** before the Supreme Court, both these appeals were clubbed along with ***Special Leave to Appeal (Civil) No. 16362 of 2010***. Supreme Court vide its interim order dated 28.05.2010 in ***Special Leave to Appeal (Civil) No. 16362 of 2010 Rajiv Kumar Mishra (supra)*** provided that any action taken by respondents in furtherance of the impugned provisions of the Act of 1971 shall remain subject to the outcome of this appeal. On 14.07.2010, the order dated 28.05.2010 was modified to also provide that any person purchasing sugar mills from State government will also be bound by Supreme Court's order dated 28.05.2010. On

27.09.2021, on an application filed on behalf of appellants in ***Civil Appeal No. 8198-8199 of 2010***, the Supreme Court, dismissed both these appeals as withdrawn. Thereafter on 16.08.2023, Chief Revenue Officer, Deoria issued the impugned order, asking the petitioner among other plot owners to submit documents proving their ownership over their plots. During the course of argument this Court asked Sri Prashant Chandra, learned Senior Advocate for the petitioner, whether he would like to amend his prayer and also challenge the order dated 04.06.2007 issued by the Principal Secretary, Government of Uttar Pradesh, Lucknow to which Mr. Chandra replied in negative.

4. At the very outset, learned counsel for respondent no. 2 and 3, questions the maintainability of present petition before this Court. He submits that the petitioner is only seeking quashing of an order passed by the Chief Revenue Officer, Deoria, which falls under territorial jurisdiction of this Court at Allahabad, therefore, the petition could only be filed before this Court at Allahabad. This Court sitting at the Lucknow cannot issue a writ with respect to an authority located in the District Deoria which falls under the territorial jurisdiction of this Court at Allahabad. Learned counsel for the respondent further submits that no cause of action has arisen in the territorial jurisdiction of this Court and therefore the present petition is not maintainable. In support of his submissions learned counsel for respondent No. 2 and 3 places reliance on the Judgments of Supreme Court in the cases of:-

(i) Union of India and Another vs A. Shainamol, IAS and Another: 2021 SCC Online SC 962:

(ii) Alchemist Ltd. and another vs State Bank of Sikkim and others: (2007) 11 SCC 335;

(iii) Oil and Natural Gas Commission vs Utpal Kumar Basu and Others: (1994) 4 SCC 711, a Full Bench Judgment of this Court in the case of Rajendra Kumar Mishra vs Union of India and others: (2005) All LJ 596 (FB) and

(iv) another reported judgment dated 31.05.2023 of this Court in the case of ***C/M Shri Paras Nath Anusuchit Prathmik Pathshala vs State of U.P. and others (Writ-C No. 747 of 2023)***.

5. Addressing the question of maintainability, Sri Prashant Chandra, learned Senior Advocate for the petitioner submits that in fact the impugned order is issued in furtherance of Order dated 04.06.2007 issued by the Principal Secretary, Government of Uttar Pradesh which was reiterated and adopted via legislation in the form of Section 3D of the Act of 1971. This Court at Allahabad has already held Section 3D of the Act of 1971 ultra vires vide its judgment and order dated 01.04.2010 passed in ***Civil Misc. Writ Petition No. 39850 of 2009 Chini Mill Karamchari Sangh (supra)***. Therefore, impugned order is an effort by the respondents to circumnavigate and obfuscate the effect of the judgment and order dated 01.04.2010 passed by this Court at Allahabad. Learned Senior Advocate argues that even though the order dated 04.06.2007 is not under challenge but it goes to the root of the controversy as it is at the genesis of subsequent legislation of the Section 3D of the Act of 1971 and as such gives rise to his cause, at least in part, and therefore, this petition is maintainable before this Court. In such a scenario, learned counsel for the petitioner seeks this Court's intervention in restoring the status ante and quashing the arbitrary and illegally passed impugned order. In support of his submissions on the question of maintainability learned Senior Advocate for the petitioner company places reliance upon the following reported judgments of the Supreme Court:

(i). Paragraphs 16-27 and 36 of the judgment in the case of ***Navinchandra N. Majitha vs State of Maharashtra and Others: (2000) 7 SCC 640***;

(ii). Paragraphs 6, 14-17, and 20-22 of the judgment in the case of ***State of Goa vs Summit Online Trade Solutions Private Limited and Others: (2023) 7 SCC 791***;

(iii). Paragraphs 24-29 of the judgment in the case of ***Kusum Ingots and Alloys Ltd. vs Union of India and Another: (2004) 6 SCC 254***;

(iv). Paragraphs 16-18 of the judgment in the case of ***Shanti Devi Alias Shanti Mishra vs Union of India and Others: (2020) 10 SCC 766***;

(v). Paragraphs 9-10, 12, 14, and 18 of the judgment in the case of ***Nawal***

6. This Court will have jurisdiction if as per clause 2 of the Article 226 of the Constitution, the cause of action, wholly or in part, arises within the territorial jurisdiction of this Court. A perusal of the materials available on record shows that the plot in question is situated in Deoria which falls under the territorial jurisdiction of this Court at Allahabad. Respondent No. 5 Chief Revenue Officer, Deoria, issuing the impugned order is also situated outside the territorial jurisdiction of this Court. The relief sought is also against the same respondent and since the petitioner is not challenging the order dated 04.06.2007, issued by the Principal Secretary, Government of Uttar Pradesh, no cause of action, per se, is arising within the territorial jurisdiction of this Court. However, counsel for the petitioner argues that since the impugned order is in furtherance of the order dated 04.06.2007, therefore a part of the cause of action is arising within the territorial limits of this Court. In the case of ***Summit Online Trade Solutions Private Limited (supra) (paragraph 17)***, also relied upon by learned counsel for the petitioner, Supreme Court has devised a test for determining whether the facts pleaded constitute a part of the cause of action. Paragraph 17 of the aforesaid judgment reads:

“17. Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted. Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests.”

7. Contention of the counsel for the petitioner is that impugned order is in furtherance of order dated 04.06.2007. A perusal of the said order shows that the

same is with regard to disinvestment/sale of State owned Sugar Mills, whereas, impugned order is regarding enquiry for verifying the title over certain plots. There is not even a whisper of order dated 04.06.2007 of Principal Secretary, Lucknow in the impugned order which could give birth to any cause of action before this Court. This Court is unable to find any nexus between both. Since, petitioner has neither challenged the order dated 04.06.2007, nor he has been able to establish any nexus between the said order of Principal Secretary and order dated 16.08.2023 of the Chief Revenue Officer, Deoria in the present writ petition. Therefore, no part of the cause of action is arising within the territorial jurisdiction of this Court. All the aforesaid judgments of the Supreme Court as relied upon by the counsel for the petitioner emphasize the existence of a cause of action, either wholly or in part, within the territorial jurisdiction of a High Court dealing with the matter. Since, as discussed above, no cause of action arises within the territorial jurisdiction of this Court, therefore, none of the case laws relied upon by the counsel for the petitioner are applicable in the present case.

8. In light of the above, the petition is ***dismissed*** for want of jurisdiction.

Order Date :- 9.11.2023
Arti/-

[Manish Kumar,J.] [Vivek Chaudhary,J.]