

In the High Court of Punjab and Haryana at Chandigarh

RSA- 170 of 1997 (O&M)
Date of Decision: 17.9.2019

State of Punjab and others

---Appellants

versus

Harnek Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. A.A.Pathak, Addl. A.G.Punjab
for the appellants

Ms. Aparna Singal, Advocate,
for the respondent

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration and permanent injunction filed by the respondent-plaintiff was decreed by the trial court vide judgment and decree dated 31.1.1994 that came to be affirmed in appeal by the Additional District Judge, Patiala vide judgment and decree dated 9.8.1996.

Counsel for the appellant would argue that a notice Ex. P1 was issued by the Assistant Collector IInd Grade, Sub Tehsil Dera Bassi to Harnek Singh respondent in respect of royalty of Rs. 4000/- and the noticee was to appear in tehsil office failing which he would be liable to pay the amount along with interest as penalty. It is further argued that respondent challenged the aforesaid demand on the averments that he is owner of about

7 killas of agriculture land situated at village Amlala and some of the land is under the bed of river Ghaggar. He never took any land on lease from the defendants-appellants, therefore, alleged demand of Rs. 4000/- is not correct and defendants should be restrained from effecting recovery by coercive method as arrears of land revenue. It is vehemently argued that in view of provisions of Sections 4 and 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957, the State Government is entitled to recover royalty, therefore, the courts have committed gross error rather perversity by accepting plea of the respondent challenging legality of notice of demand.

Counsel representing the respondent-plaintiff has supported consistent findings recorded by the courts with the submission that the courts have rightly decided issue No. 1 in favour of the plaintiff on the basis whereof the suit was decreed.

I have heard counsel for the parties, perused the paper book and records.

Counsel for the appellants, in response to a query and after going through the original records, has fairly conceded that except notice Ex. P1, there is no other documentary evidence produced by the appellants-defendants to justify raising demand of Rs. 4000/- towards royalty.

Perusal of notice would reveal that nothing has been mentioned therein as to for what purpose this notice was issued or the statute under which the respondent had incurred liability to pay Rs. 4000/- towards royalty. In the given scenario, without examining correctness or otherwise of findings recorded by the courts, in my considered opinion,

notice Ex. P1 cannot form the basis for raising a demand of Rs. 4000/- towards royalty. In this view of the matter, it can safely be held that the authorities have acted in purely arbitrary manner by issuing notice Ex. P1 calling upon the addressee to pay Rs. 4000/- failing which he would be liable to pay the amount along with interest etc. In view of the above, I do not find any reason to interfere in the judgments passed by the courts.

For the foregoing reasons, the appeal is dismissed, leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

17.9.2019.

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No