

UNION OF INDIA AND ORS.

v.

S. J. THANAWALA AND ANR.

FEBRUARY 26, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Licence—Grant and Renewal of—Salt factory—Both Government and respondents asserting their title to the property—Title to property or title under a lease is condition precedent—High Court not gone into the question of title and relegated the parties to the decision of the Tribunal—High Court's views justified on the facts of the case—However it would be subject to the result of the appeal—Till then the interim order passed by the High Court to continue.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4387 of 1996.

From the Judgment and order dated 29.7.1991 of the Bombay High Court in Writ Petition No. 2333 of 1983.

A.N. Jayaram, Additional Solicitor General, A.D.N. Rao, Ms. Sushma Suri and D.S. Mehra for the Appellants.

Ashok H. Desai, K. Madhava Reddy Krishan Mahajan, Arvind Kr. Sharma, P.H. Parekh, Dr. R.B. Masodkar, K.L. Taneja and A.M. Khanwilar for the respondents.

The following Order of the Court was delivered :

Leave granted.

This appeal by special leave arises from the order of the Division Bench of the Bombay High Court made on July 29, 1991 in Writ Petition No. 2333/83. The admitted position is that one Hanumanbux had been running salt works at Bombay. It had established salt factory at Bhandup Circle on land admeasuring 138 acres 17 guntas and seabed etc., on the basis of a lease which was due for renewal on July 1, 1983. When a notice was issued by the appellants on June 30, 1983 calling upon the licensees to execute a lease deed admitted the title of the appellants, they resisted the action in the above writ petition. The High Court in the impugned order

stated that whether the respondents are owners of the property or a lessees and consequently whether the Government can compel the licensees to concede to their title are jurisdictional issues. Since the Collector had already decided that the respondents had title to the property, which is a condition for grant of a valid licence, it was for the Government to consider the renewal of the licences provided all the requisite conditions for renewal of the licence were complied with. We are informed that the appeal has already been filed against the order of the Collector and is pending. It is for the Government to have the matter disposed of.

It is not in dispute that for grant of renewal, title to the property or title under a lease is a condition precedent. The Government asserted its title to the property and called upon the respondents to accept their title and have a licence issued from them. On the other hand, the respondents asserted to have title to the property and claimed that they had a right under the order passed by the Collector which is subject matter in the appeal. The High Court, therefore, rightly has not gone into the question of title and relegated the parties to the decision of the appellate Tribunal and to take action in furtherance thereof. The view taken by the High Court, therefore, cannot be said to be unjustified on the facts of the case. However, it will be subject to the result in the appeal and the action of the appellants would be in furtherance thereof. Until then, the interim order passed by the High Court would continue. It would be open to the appellants to have the appeal disposed of as expeditiously as possible and have the matter decided accordingly.

The appeal is dismissed. No costs.

Appeal dismissed.