A SMT. RATAN KAUR

v.

UNION OF INDIA AND ORS.

MAY 2, 1997

B [K. RAMASWAMY AND D.P. WADHWA, JJ.]

Lease :

Government land—Assigned for 30 years—On death of assignee his heir
C *transferred the land—On demise of transferee his heir applied for assign-ment—Application rejected—Single Judge of High Court directed grant of assignment, but Division Bench allowed writ appeal holding that applicant had no right for second renewal after expiry of 30 years—Held, rejection of the application for renewal of grant is clearly intra vires.*

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3639 of 1997.

From the Judgment and Order dated 25.7.95 of the Calcutta High Court in F.M.A.T. No. 2490 of 1993.

E Om Prakash Dubey, R.D. Upadhyay and Subrata Das for the Appellant.

M.S. Usgaocar, Additional Solicitor General, Dhruv Mehta and D.S. Mehra for the Respondents.

F The following Order of the Court was delivered :

Delay condoned.

Leave granted.

G Originally the land of an extent of 68 acres, 7 kanal and 11 marlas situated in Andaman & Nicobar Islands was assigned on May 1, 1922 to Khansahib Naban Ali for 30 years. After his demise in 1947, his widow Smt. Noorjahan Begum had transferred the land in the name of father-in-law of the appellant in the year 1949-50. Mutation was effected by an officer in the name of appellant after the demise of her father-in-law. She filed an
H application for assignment. That was rejected. On a writ petition filed in

the High Court, the learned single Judgment directed grant of assignment. In Writ Appeal No. 2490/93, by judgment and order dated July 25, 1995, the Division Bench of the Calcutta High Court allowed the writ appeal and held that she had no right for second renewal after the expiry of 30 years. Since under the covenant, the predecessor-in-interest was entitled to only one renewal, after the first renewal, she had no right. Rejection of her application for assignment is quite legal. The view taken by the High Court is correct. The lands absolutely belonged to the Government and they were assigned to Khansahib Naban Ali. The assignee has a right only for one renewal. Admittedly, the lease was made in May 1922. After the expiry of 30 years in 1952, further renewal for another 30 years having been rejected, she had no right for assignment. The rejection of the application for renewal of grant is clearly *intra vires*.

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It is stated that the appellant does not have any house to accommodate large family. In that view, we direct the respondents to consider grant of suitable land for construction of the house.

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The appeal is accordingly disposed of. No costs.

R.P. Appeal disposed of.