A

STATE OF MAHARASHTRA

v.

NARAYAN VYANKATESH DESHPANDE

March 31, 1976

B [P. N. BHAGWATI, A. C. GUPTA AND S. MURTAZA FAZAL ALI, JJ.]

Bombay Paragana and Kulkarni Watans (Abolition) Act, 1950—Compensation payable on resumption of land under s. 6(2)—Whether the "watan" was in respect of the soil or the watan was of land revenue—Construction of "Sanad" granted by the British Government in terms "The Exemption From Land Revenue (No. 1) Bombay Act 2 of 1863.

C The respondent by virtue of the sanad granted to his ancestors by the British Government, claimed, in respect of certain lands situated in village Shiramba Taluka Koregaon, District North Satara, compensation under s. 6(2) of the Bombay Paragana and Kulkarni Watans (Abolition) Act, 1950, for the resumption of the lands by the appellant. The suit claim of Rs. 15,074-4-0 being "a sum equal to ten times the amount of such land revenue" was decreed by the trial court. On appeal by the State, the High Court affirmed the same, after construing the sanad granted by the British Government in favour of the respondents' ancestors and other relevant records, as it was a watan of land revenue and not in respect of the soil.

D Dismissing the State's appeal by special leave to this Court,

HELD : (1) The High Court was right in holding that the grant in favour of the ancestors of the respondent was a grant of land revenue only and not a grant of the soil and since the watan held by the respondent at the date of the coming into force of the Act was a watan of land revenue, the respondent was entitled to compensation in the sum of Rs. 15,074-4-0 under s. 6(2) of the Bombay Paragana and Kulkarni Watan (Abolition) Act, 1950. [982B-C]

E (2) The sanad undoubtedly used the words "lands" to describe the subject-matter of the grant, but the word "land" is defined in Bombay Act II of 1863 [The Exemption From Land Revenue (No. 1) Act 1863,] to include share of land revenue and this meaning would apply in the construction of the word "land" in the sanad since the sanad was apparently granted pursuant to the enquiry made under Bombay Act II of 1863. The description of the subject-matter would not, therefore, necessarily indicate that it was a grant of the soil. In fact, this description standing alone would rather indicate that it was a F grant of land revenue only, since grant of the soil would ordinarily be accompanied by words such as 'Darobast' or 'Jal', 'Taru', 'Truna', 'Kastha' and 'Pashan'. [981F-H]

[Their Lordships deprecated the litigious approach adopted by the State Government and observed "State Governments which have public accountability in respect of their actions should not lightly rush to this Court to challenge a judgment of the High Court which is plainly and manifestly correct and drag G the opposite party in unnecessary expense.]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1381 of 1968.

(Appeal by Special Leave from the Judgment and Decree dated the 22-2-1967 of the Bombay High Court in First Appeal H No. 12/1960).

M. N. Phadke, M. N. Shroff and *S. P. Nayar,* for the appellant.

V. S. Desai and *D. Goburdhan,* for the respondent.

The Judgment of the Court was delivered by

BHAGWATI, J.—This appeal by special leave raises a short question as to whether the Watan held by the respondent at the date of coming into force of the Bombay Paragana and Kulkarni Watans (Abolition) Act, 1950 was a Watan of the soil, or a Watan of land revenue only, in respect of certain lands situate in village shirambe, Taluka Koregaon, District North Statara. If the Watan was in respect of the soil, the respondent would not be entitled to any compensation for the resumption of the Watan lands, but if it was a Watan of land revenue only, the respondent would have a claim for compensation for a "a sum equal to ten times the amount of such land revenue" under s. 6(2) of the Act. The respondent claimed that the Watan was of land revenue only and not of the soil and he was, therefore, entitled to compensation as provided in s. 6(2) of the Act and filed a suit for recovery of Rs. 15,074-4-0 by way of compensation against the State of Maharashtra in the Court of Civil Judge, Senior Division, Satara. The claim was decreed by the learned Civil Judge, Senior Division and on appeal by the State of Maharashtra the High Court affirmed the view taken by the learned Civil Judge, Senior Division. The High Court construed the Sanad granted by the British Government in favour of the ancestors of the respondent in the light of the surrounding circumstances and particularly the entries contemporaneously made in the alienation register and came to the conclusion that the grant embodied in the Sanad was not a grant of the soil but was merely a grant of land revenue and the respondent was, threfore, entitled to claim compensation the basis laid down in s. 6(2) of the Act. The State of Maharashtra being aggrieved by the decree passed by the learned Civil Judge, Senior Division and affirmed by the High Court preferred the present appeal with special leave obtained from this Court.

We have carefully gone through the judgment of the High Court and we find ourselves completely in agreement with the conclusion reached there. The judgment of the High Court is a well reasoned judgment and the learned counsel appearing on behalf of the State of Maharashtra has not been able to show any infirmity in it. The opening part of the Sanad clearly shows that it was issued in recognition of a grant which was already made in favour of the ancestors of the respondent. The Sanad undoubtedly used the word 'lands' to describe the subject-matter of the grant, but the word 'land' is defined in Bombay Act 2 of 1863 to include share of land revenue and this meaning should apply in the construction of the word 'land' in the Sanad, since the Sanad was apparently granted pursuant to the enquiry made under Bombay Act 2 of 1863. The description of the subject matter of the grant as 'lands' in the Sanad would not, therefore, necessarily indicate that it was a grant of the soil. In fact, this description standing alone would rather indicate that it was a grant of land revenue only, since grant of the soil would ordinarily be accompanied by words such as 'Darobast' or 'Jal', 'Taru', 'Truna', 'Kastha' and 'Pashan.' Moreover, the entries contemporaneously made in the alienation register also showed that the grant referred to in the Sanad was a grant of land revenue only and not a grant of the soil. The High

A Court has discussed these entries and it is not necessary for us to reiterate what has been so ably said by the High Court. The earlier documents relied upon by the respondent have also been referred to by the High Court and they clearly go to show that the grant was of land revenue and not of the soil. This position was in fact accepted by the Revenue Officers all throughout and that is evident from the order of the District Deputy Collector, Satara dated 19th August, 1937 B (Ex. 28) and the decision dated 28th February, 1951 (Ex. 331) given by the Collector of North Satara allowing an appeal filed by the respondent. We are, therefore, of the view that the High Court was right in holding that the grant in favour of the ancestors of the respondent was a grant of land revenue only and not a grant of the soil and since the Watan held by the respondent at the date of the coming into force of the Act was a Watan of land revenue, the res- C pondent was entitled to compensation in the sum of Rs. 15,074-4-0 under s. 6(2) of the Act.

It is indeed difficult to understand as to why the State of Maharashtra should have preferred the present appeal at all. The judgment of the High Court was pre-eminently a correct judgment based on a careful appreciation of the evidence on record and it did no more D than adopt a construction of the grant which had throughout been accepted as the correct construction by the Revenue Officers over the last 75 years. The learned counsel appearing on behalf of the State of Maharashtra in fact found it impossible to assail the reasoning of the judgment. It is evident that the appeal was filed by the State of Maharashtra without giving much thought to the question and caring to enquire whether the judgment of the High Court suffer- E ed from any errors requiring to be corrected by a superior court. We do not think it is right that State Governments should lightly prefer an appeal in this Court against a decision given by the High Court unless they are satisfied, on careful consideration and proper scrutiny, that the decision is erroneous and public interest requires that it should be brought before a superior court for being corrected. The State Governments should not adopt a litigious approach and F waste public revenues on fruitless and futile litigation where there are no chances of success. It is unfortunately a fact that it costs quite a large sum of money to come to this Court and this Court has become untouchable and unapproachable by many litigants who cannot afford the large expense involved in fighting a litigation in this Court. It is, therefore, all the more necessary that State Governments, which have public accountability in respect of their actions, G should not lightly rush to this Court to challenge a judgment of the High Court which is plainly and manifestly correct and drag the opposite party in unnecessary expense, part of which would, in any event, not be compensated by award of cost. The present appeal is an instance of the kind of unnecessary and futile litigation which the H State Governments can and should avoid.

We accordingly dismiss the appeal with costs.

S.R. *Appeal dismissed.*