

PETITIONER:
SMT. RATAN KAUR

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 02/05/1997

BENCH:
K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

Present:

Hon'ble Mr. Justice K. Ramaswamy

Hon'ble Mr. Justice d.P. Wadhwa

Om Prakash Dubey, R.D. Upadhyay and Subrata Das, Advs. for
the appellant

M.S. Usgaocar, additional Solicitor General, Dhruv Mehta,

D.S. Mehra, Advs. with him for the Respondents

The following order of the court was delivered:

O R D E R

Delay condoned.

Leave granted.

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 application for assignment. That was rejected. On a writ petition filed in the High Court, the learned single Judge 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 incorrect. 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.

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.

The appeal is accordingly disposed of. No costs.

JUDIS