N.K.S.

FULL BENCH

Before S. S. Sandhawalia, C.J., Prem Chand Jain & G. C. Mital, JJ.

SUBHASH CHANDER,—*Petitioner*

versus

STATE OF PUNJAB and others,—*Respondents*

Civil Writ Petition No. 894 of 1981.

June 3, 1982.

The Punjab Land Revenue Act (XVII of 1887)—Section 42—Mines and Minerals (Regulations and Development) Act (LXVII of 1957)—Section 3(e) and 30—Rival claims by the Government and landowners over the ownership of brick-earth (minor mineral)—Entries in Wajib-ul-arz *of the concerned revenue estate—Presumptions under section 42—Such claims—Whether to be adjudicated by reference to the entries in the* Wajib-ul-arz *alone.*

Held, that a plain reading of sub-sections (1) and (2) of section 42 of the Punjab Land Revenue Act, 1887 makes it manifest that the presumption raised thereby is a rebuttable one. Whilst sub-section (1) raises a rebuttable presumption in favour of the Government, the succeeding sub-section raises a similar presumption in favour of the landowners provided that there is no express entry in the record of rights. This presumption is raised in identical terms in both the sub-sections. It is axiomatic that the presumptions aforesaid are not absolute and can be rebutted by evidence. It is obvious that as regards the presumption under sub-section (2), no limitation or specific mode for the rebuttal thereof has been provided by the statute and is thus left entirely to the parties. It must therefore, be held that the rival claims of the parties over the vesting

of brick-earth are not constricted to adjudication only on the basis of the entries in the *wajib-ul-arz* of the revenue estate and the claim to rebut the presumption raised in section 42 of the Act by evidence in a Court of law cannot be summarily ousted. (Paras 6 and 13).

State of Haryana *v.* Mangat Ram etc. 1976 Current Law Journal (Civil) 498.

State of Haryana *v.* Gram Panchayat, Jamalpur, 1980 Revenue Law Reporter 152. *Over-ruled.*

Writ Petition under Articles 226/227 of the Constitution of India praying that this Hon'ble Court may be pleased to issue:—

A. A writ of mandamus restraining the respondents from initiating recovery proceedings under the Rules unless they get their title of ownership regarding brick earth in the land decided from a civil court;

B. A writ of mandamus declaring that respondents are not competent to start recovery proceedings against the petitioner when the brick earth does not vest in them ;

C. Restraining the respondents from in any way interfering in the working of the brick manufacturing process by the petitioner and initiating proceedings without first establishing their title in the brick earth ;

D. A writ of certiorari quashing the Certificate of demand issued by Mining officer,—vide *Annexure "P-1" and the Demand Notice issued by the Collector,*—vide *Annexure "P-2".*

E. Dispense with the issuance of notice of motion.

F. Any other writ, Direction or Order as this Hon'ble Court may deem fit in the circumstances of the case.

It is further prayed that till the decision of this writ petition, proceedings initiated by the respondents be stayed.

H. L. Sibal, Senior Advocate, Kuldip Singh, J. K. Sibal, Bhal Singh Malik and Vishal Malik, Advocates with him, *for the Petitioner.*

Anand Swarup, Senior Advocate with Sanjiv Pabbi, and M. J. S. Sethi, Additional A.G., with him, *for the State of Punjab.*

JUDGMENT

S. S. Sandhawalia, C.J.

1. Whether the rival claims of the Government and the landowners over the vesting of brick-earth (a minor mineral) must be adjudicated only on the basis of the entries in the *wajib-ul-arz* of the revenue estate is the significant common question which has come to the fore in this set of nine civil writ-petitions. Equally in issue is an apparent conflict of authority betwixt two Division Bench judgments reported as *State of Haryana etc.* v. *Mangat Ram etc.* (1) and *The State of Haryana and others* v. *Gram Panchayat, village Khori Jamalpur and others,* (2), which, indeed, had necessitated this reference to the Full Bench.

2. Admittedly, the issues of law and fact are identical herein and it, therefore, suffices to advert briefly to the facts in Civil Writ Petition No. 894 of 1981 (*Subhash Chander* v. *The State of Punjab and others*). The petitioner herein carries on the business of manufacture and sale of bricks in his kiln situated in village Ghaggar Sarai, Tehsil Rajpura, after extracting brick-earth from land taken on lease from private owners of the said revenue estate. It is averred that the *sharat-wajib-ul-arz* (Annexure P-3) thereof has not specifically reserved brick-earth as vesting in the Government and, therefore, the ownership thereof rests with the landowners. Consequently, the respondent-State not being possessed of any proprietary rights in brick-earth, is not entitled to recover any royalty etc. therefor. Nevertheless, the Mining Officer, Department of Industries of Punjab, Mubarakpur, issued the notice Annexure P-1 certifying that a sum of Rs. 6,239.44 was recoverable as arrears of land-revenue from the petitioner as royalty for brick-earth. It is further the claim that before the issuance of this notice, no opportunity was afforded to the petitioner to show that brick-earth did not vest in the State and, therefore, no royalty or other charges therefor could be levied. The petitioner preferred an appeal under rule 54-F of the Punjab Minor Mineral Concession Rules, 1964, before the State Geologist, Department of Industries, Punjab, Chandigarh, who, on the 27th of February, 1981, is alleged to have declined to consider any other

(1) 1976 Current Law Journal (Civil) 498.

(2) 1980 P.L.J. 204.

matter apart from the proof of the deposit of the due amount and straightway rejected the appeal. Aggrieved thereby, the petitioner preferred the writ petition placing basic reliance on *Gram Panchayat village Khori Jamalpur's case* (supra).

3. In the return filed on behalf of the respondents, the preliminary objection (subsequently strenuously pressed in argument) is that the petition relates to the title and vesting of minor minerals which involves an intricate dispute on facts, and therefore, cannot be adjudicated in the civil writ jurisdiction. Particular reliance in this context is placed on the Full Bench judgment in *M/s. Amar Singh-Modi Lal* v. *State of Haryana and others*, (3). It has been averred that, according to the *sahrat-wajib-ul-arz* of village Chalheri, Tehsil Rajpura, District Patiala (Annexure R-1), the right to minerals vests with the State Government when read with section 42(2) of the Punjab Land Revenue Act, 1887. On the point of alternative remedy, it is pleaded that an appeal under rule 54-F of the Punjab Minor Mineral Concession Rules, 1964, lies to the State Geologist as well as to the Central Government under section 30 of the Mines and Minerals (Regulation and Development) Act, 1957. On merits, it is averred that the petitioner, in fact, is running his brick-kiln and is extracting brick-earth from land situated in village Chalheri without any lawful authority. Basic reliance was placed on Annexure R-1, the *sharat-wajib-ul-arz* of the said revenue estate, the Division Bench judgment of this Court in *Mangat Ram's case* (supra), *and (State of Haryana) N. K. Kohli, etc.* (4). The basic stand of the respondent-State is reiterated that the right to minor minerals has to be decided on evidence and, as this would involve a dispute on facts, it cannot be decided in the writ jurisdiction nor is it for the High Court to direct as to which of the rival parties shall go to the civil Court to get its title established. Reliance is placed on a number of judgments of this Court that the title to minor minerals primarily vests in the Government.

4. At the very threshold it calls for pointed notice that it seems to be now settled beyond cavil that brick-earth has validly been declared to be a minor mineral by the relevant notification

(3) AIR 1972 Pb. & Haryana 356.
(4) LPA 264 of 1974 decided on 5th April, 1977.

issued under section 3(e) of the Mines and Minerals (Regulation and Development) Act, 1957. In *M/s. Amar Singh-Modi Lal's case* (supra) the majority view after an elaborate discussion of principle and precedent had concluded as under :—

> "In the ultimate analysis, therefore, I am of the view that no taint of unconstitutionality attaches to either Section 3(e) of the Act or to the impugned notification G.S.F. 436 in so far it has declared 'brick-earth' to be a 'minor mineral'.

The aforesaid view in the larger context now seems to have the approval of the final Court itself in *Bhagwan Das* v. *State of U.P. and others*, (4-A), wherein a somewhat similar contention was raised that sand, gravel, building stone and *bajri* deposited on the surface of the land by the fluvial action of river Yamuna were not minerals and in any case vested in the private owners of the land. Categorically rejecting such a contention Chandrachud, J. (as the learned Chief Justice then was) observed as follows :—

> "Only one more argument made on behalf of the appellant requires to be noticed. It was urged that the sand and gravel are deposited on the surface of the land, and not under the surface of the soil and therefore they cannot be called minerals and equally so, any operation by which they are collected or gathered cannot properly be called a mining operation. It is in the first place wrong to assume that mines and minerals must always be sub-soil and that there can be no minerals on the surface of the earth. Such an assumption is contrary to informed experience. In any case the definition of mining operations and minor minerals in Section 3(d) and (e) of the Act of 1957 and Rule 2(5) and (7) of the Rules of 1963 shows that minerals need not be sub-terranean and that mining operations cover every operation undertaken for the purpose of 'winning' any minor mineral. 'Winning' does not imply a hazardous or perilous activity. The word simply means 'extracting a mineral' and is used generally to indicate any activity by which a mineral is secured. 'Extracting', in turn, means drawing out or obtaining. A tooth is 'extracted' as much as is fruit juice and as much

(4-A) A.I.R. 1976 S.C. 1393.

as a mineral. Only that the effort varies from tooth to tooth, from fruit to fruit and from mineral to mineral."

In view of the authoritative enunciation aforesaid it must be held that brick earth comes within the ambit of a mineral which has been validly declared to be a 'minor mineral' by the relevant statutory provision.

5. Once it is held as above, the primary *lis* betwixt the parties is with regard to the vesting of the minor minerals or brick-earth in the different revenue estates with regard to which the writ petitions have been filed. On behalf of the petitioners, apart from the respective entries in the *Wajib-ul-Arz* of each village estate, particular reliance was placed on Section 42 of the Punjab Land Revenue Act. Counsel contended that with regard to the settlements after the year 1871 (the entries in the *Wajib-ul-Arz* being all post-1871) sub-section (2) of section 42 raises a presumption that the minerals would vest in the landowners unless it is expressly provided to the contrary. Heavily relying on this provision the submission was that the *Wajib-ul-Arz* of the respective villages did not in terms provide the brick-earth would vest in the State. Consequently it was argued that in the absence of any express provision with regard to brick earth in the revenue entries it must be presumed to vest in the landowners by virtue of section 42(2).

6. To appreciate the respective stand of the parties with regard to the presumptions raised by section 42 it is apt to read its relevant provisions :—

"42. *Presumption as to ownership of forests quarries and waste land.*—(1) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the (Government).

(2) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the (Government) it shall be presumed to belong to the landowners.

(3) The presumption created by sub-section (1) may be rebutted by showing —

(a) from the record or report made by the assessing officer at the time of assessment, or

(b) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest,

that the forest, quarry, land or interest was taken into account in the assessment of the land revenue.

(4) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the (Government)."

Now a plain reading of sub-sections (1) and (2) aforesaid makes it manifest that the presumption raised thereby is a rebuttable one. Whilst sub-section (1) raises a rebuttable presumption in favour of the Government, the succeeding sub-section raises a similar presumption in favour of the landowners provided that there is no express entry in the record-of-rights. This presumption is raised in identical terms in both the sub-sections. It is axiomatic that the presumptions aforesaid are not absolute and can be rebutted by evidence. Indeed, this was the common stand of the learned counsel for the parties themselves. However, any doubt on this aspect is conclusively repelled by sub-sections (3) and (4), which provide in terms for the nature of evidence by which the same is to be repelled. It is obvious that as regards the presumption under sub-section (2) no limitation or specific mode for the rebuttal thereof has been provided by the statute and is thus left entirely to the parties.

7. It is in the aforesaid context of the rebuttable presumptions that the firm stand of the learned counsel for the respondents, Mr. Mohinderjeet Singh Sethi, the learned Advocate-General, Punjab and Mr. Anand Swaroop, that the respondent-State cannot be pinned down to the evidence of *Wajib-ul-arz* only, has to be considered. It was forcefully averred in the pleadings and as well reiterated in

arguments that the statute gives them the right to lead evidence to rebut or buttress the presumptions, if any, and both on principle and precedent such a right cannot be denied. Learned counsel were, therefore, vehement in strenuously pressing the objection that the disputed questions of fact, and evidence regarding the vesting of minor minerals, must be established in a Civil Court upon evidence led by the parties and not within the narrow confines of the writ jurisdiction.

8. I am of the view that the stand of the respondents herein is impeccable and apart from its soundness on principle the settled weight of precedent within the Court entitles them wholly to sustain the same.

9. Way back in *Khushal Singh and others* v. *The State of Punjab and others*, (5), a similar contention as is being raised on behalf of the present petitioners that the writ Court should construe the *Wajab-ul-arz* alone and grant relief, was repelled categorically by the Division Bench with the following observations :—

> "..... In any case it is urged that the relevant entry in the *Wajab-ul-arz* should be one which could show the ownership of existing mines and quarries and not of what would be the position in future. On the meagre data before us it is not possible to pronounce on the exact meaning or effect of this *Wajab-ul-arz*. Nor can this Court, while acting in exercise of its jurisdiction under Article 226 of the Constitution, be called upon to decide a disputed question of fact like this, particularly when even the applicability of the *Wajab-ul-arz* to the sites in question is not admitted.
>
> The question that arises in this respect is as to who could go to a competent court to have those rival claims between the parties settled and whether there is any other appropriate Machinery provided by the Revenue Act or by the Act or the Punjab Rules for determination of these disputes. The jurisdiction of the Civil Courts to decide the rival claims of the parties relating to the ownership of the

(5) I.L.R. 1966 Pb. 166.

mineral rights in the land do not appear to be barred by any provision of law. In any case no such provision has been pointed out to us by any of the learned counsel appearing for the parties in this case. Any party aggrieved in any particular circumstances can, therefore, institute a suitable action in Court according to law."

The aforesaid view was then reiterated by an equally exhaustive judgment in *Dr. Shanti Saroop Sharma and another* v. *State of Punjab and others*, (6), wherein it was concluded as under :—

"As has been noticed earlier, there has been a serious dispute in all the petitions before us regarding the ownership of the rights in minor minerals found in the land occupied by the petitioners, and that dispute cannot be settled in these proceedings as this Court is not the proper forum for going into such disputed questions of fact under Articles 226 and 227 of the Constitution. The rival claims of the parties to the ownership of the minor minerals in question can be settled by appropriate proceedings in a Court of law."

The final sanction to the above view was accorded by the Full Bench in **M/s Amar Singh Modi Lal's case** (supra) as is evident from para 59 of its report. In fact, the Full Bench further and categorically rejected the claim for a lesser relief on behalf of the petitioner that a writ be issued in their favour **prima facie** and the State be directed to establish their claim to minor minerals in a Civil Court and secure its verdict in its favour with the under-mentioned observations :—

"——With greatest deference to Tuli, J., if the decision in the Gram Panchayat, Kiratpur's case, Civil Writ No. 2146 of 1969, dated 2nd February, 1970 (Punj and Har), seeks to lay down that a writ may issue without resolving disputed questions of fact and subject to a subsequent decision on merits by the Civil Court, then I would respectfully beg to differ from that view. Nor do I think that it is the province of the Court of writ jurisdiction to tender advice or direct the litigants before it as to which one of them should go to the Civil Court first or the mode or manner

(6) AIR 1969 Pb. & Hary. 79.

of the legal remedies any one of them may choose to adopt."

10. In fairness, reference must be made to *Om Parkash* v. *The State of Haryana and others* (7), on which some tenuous reliance was sought to be placed on behalf of the petitioner. It would appear from the brief judgment that in the said case the High Court did not even call upon the State to file an affidavit and did not even consider whether the facts raised were complicated or otherwise and summarily dismissed the writ petition (apparently in *limine*). It was in this context and further on the filing of an affidavit in reply, on behalf of the State, which indeed disclosed no intricate or disputed facts, that their Lordships merely remanded the matter back to the High Court to be dealt with according to law. I am unable to construe the said judgment in view of its peculiar facts as in any way eroding the ratio of the unbroken precedent within this Court, referred to above.

11. Two judgments from which some tenuous support was sought on behalf of the writ petitioner would also deserve mention in this context. In *Chuni Lal* v. *State of Haryana* (8), the *lis* between the parties was the winning of saltpetre from the land vested in the Gram Panchayat under the Punjab Village Common Lands (Regulations) Act, 1961. It deserves highlighting that saltpetre is altogether on a different footing. Learned counsel for the parties had both relied on the authoritative Douie's Punjab Settlement Manual 1899. Thereby it was clearly settled that Government had no claim to saltpetre and it vested in the landowners. Para 193 of the aforesaid Settlement Manual deserves notice **in extenso:—**

"193. *Saltpetre not treated as Government Property* :—

The question of the rights of Government in saltpetre was raised in 1891 in connection with the settlement of the Hissar district when the Punjab Government held that neither the saltpetre earth nor the educed saltpetre can properly be brought under the term 'spontaneous produce or other accessory interest in land within the meaning of

(7) 1971 R.L.R. 1.
(8) 1971 P.L.R. 159.

> Section 42 of the Land Revenue Act. It was added that Sir James Lyall believed that "in practice the government no where in the Punjab claims proprietary right in saltpetre-earth, or a title to a monopoly of the right of educing saltpetre, though preceding native Government may have claimed such a title. All that Government claims is the right of regulating or preventing the manufacture'. Saltpetre or shora must not be recorded, therefore, as Government property in the village administration paper, and any profits which the landowners derive from it may be taken in account in assessing the land-revenue. If for any reason they are left unassessed the fact that Government has not abandoned its right to assess them at some future time should be distinctly noted."

It is manifest from the above that the Government nowhere in the Punjab laid any title to saltpetre which inevitably vested in the owners of the land. Now it was in this context that the Division Bench in *Chuni Lal's case* (supra) after expressly referring to the aforesaid Settlement Manual opined that saltpetre was not even a minor mineral. Further, particular reliance was placed on the express terms of Rules 3(2)(x) and 6(5) of the Punjab Village Common Land (Regulation) Rules, 1964 to hold that thereby saltpetre was clearly vested in the Gram Panchayat. The Bench also summarily rejected the stand taken on behalf of the respondent-State that Section 14-A of the Punjab Village Common Lands (Regulation) Act, 1961 was at all attracted to the case. It seems to be obvious that this decision is wholly distinguishable and cannot even remotely advance the case of the petitioner in the context of a minor mineral, like brick-earth to which the aforesaid considerations and statutory provisions are not at all applicable.

12. For similar, if not identical reasons, the reliance of the learned counsel for the petitioner on *Prem Chand and others* v. *State of Haryana* (9), is equally in vain. This again was a case of the exploitation of saltpetre and all the considerations afore-mentioned are applicable thereto. What is even more is the fact that the learned counsel for the parties therein had expressly rested themselves entirely on the entries in the *wajib-ul-arz* without laying

(9) AIR 1977 Pb. & Haryana 50.

any claim to lead any other evidence or to rebut the presumption raised by section 42 therewith. The Division Bench expressly noticed that there was no disputed question of fact raised in those writ petitions and that in fact no such objection was pressed at the time of the arguments. Reference to paragraph 23 of the report would indicate that the learned Advocate General on behalf of the respondent-State himself relied only on the entries in the *Wajib-ul-arz* and produced the same before the Bench after seeking an adjournment. I am, therefore, clearly of the view that this case is entirely distinguishable.

13. To conclude on this aspect, it must be held that the rival claims of the parties over the vesting of brick-earth are not constricted to adjudication only on the basis of the entries in the *Wajib-ul-arz* of the revenue estate and the claim to rebut the presumptions raised in Section 42 of the Punjab Land Revenue Act, 1877 by evidence in a Court of law cannot be summarily ousted. The answer to the first question posed at the very outset has, therefore, to be rendered in the negative.

14. Adverting now to the conflict of precedents, one may first chronologically consider the relevant observations in *Mangat Ram's case* (supra). Therein, in consonance with what has been said above, the Letters Patent Bench observed as follows:—

> ".. .. .. .. Now, sections 42 (1) and 42(2) create certain presumptions. These presumptions are naturally rebutable by other evidence. Therefore, ordinarily the more appropriate forum for determining the question whether it is the Government or the owner of the land that is entitled to the minerals is, in our view, the civil court, in a duly instituted suit and not the High Court exercising jurisdiction under Article 226 of the Constitution. On that ground alone, the writ petition was liable to be dismissed...."

Having so held, the learned Judges, however, proceeded to observe (it has to be borne in mind that it was an appeal preferred by the State of Haryana) that the State itself had relied only on the entries of the *wajib-ul-arz* with the solitary addition that the respondent had taken short-term leases from the Government. On the

other hand, the respondent had not relied upon any other evidence whatsoever apart from the entries in the *wajib-ul-arz*. There being thus no claim or insistence on behalf of any of the parties to lead evidence, their Lordships proceeded to decide the question on the basis of the material before them. On the peculiar facts of that case and the peculiar entries of the *Wajib-ul-arz*, they came to the conclusion that the right to minerals in the said estate was vested in the Government because of the added circumstance that the respondent had himself taken short-term leases from the Government. Manifestly therefore, the case turned on its peculiar facts and is no authority for any such provision that the vesting of minerals has to be decided on the basis of entries in the *Wajib-ul-arz* alone (dehors a claim to lead evidence with regard to disputed questions of fact) or that these entries would conclusively vest the same in the Government. Indeed, if the brief and passing observations in the said judgment are at all liable to such a construction, then they would be plainly running counter to *M/s. Amar Singh Modi Lal's case* (supra), and the earlier settled line of precedent [*Khushal Singh's case* and *Dr. Shanti Saroop's case* (supra)], and do not lay down the law correctly and have to be overruled. Each disputed case of the vesting of minor minerals has, therefore, to be decided on the basis of the evidence led by the parties including, of course, the relevant entries in the revenue record.

15. Coming now to the judgment of the Letters Patent Bench in *State of Haryana* v. *Gram Panchayat Jamalpur* (10), it is plain from the very brief judgment therein that the issue was hardly agitated seriously before the Bench. I was party to the Bench and would recall that on behalf of the appellant-State, neither principle nor any precedent was seriously pressed in support of its case. Full Bench judgment in *M/s Amar Singh Modi Lal's case* (supra) was neither expressly relied upon nor pointed out to the Bench. For the respondents the case went by default as no appearance was made on their behalf. It was in this context that after noticing the facts, the Bench did not choose to interfere in the judgment of the learned Single Judge. However, if those brief observations are to be construed as a warrant for the proposition that despite a serious dispute on facts a writ should be granted or a *prima facie* relief accorded, leaving the parties to have their rights established

(10) 1980 R. L.R. 152.

in the Civil Court, then the same is in head-long conflict with the ratio of the Full Bench in *Amar Singh Modi Lal's case* (supra), and therefore, cannot be allowed to hold the field. It is significant that the learned Single Judge in the case had purported to follow *Dr. Shanti Saroop Sharma and another's* (supra), ratio in which a writ was expressly refused on the express ground of the disputed questions raised. It is obvious that the law laid down in *Dr. Shanti Saroop Sharma and another's case* (supra) was not rightly applied by the learned Single Judge. I have already noticed that the Full Bench in *Amar Singh Modi Lal's case* (supra) *set itself squarely* against the claim of any writ in favour of a party *prima facie* being issued without resolving the disputed questions of fact. For all those reasons. I am constrained to hold that the ultimate result in *State of Haryana v. Gram Panchayat, Jamalpur* (11), runs counter to the enunciation of the Full Bench in *Amar Singh Modi Lal's case* (supra) and is therefore, overruled.

16. Having held as above, it seems to be plain that in this set of writ petitions, a tangled dispute on facts is sought to be raised on behalf of the respondents. The claim to lead evidence to rehut the presumption, if any, under Section 42 has not only been raised but strenuously pressed. I am unable to deny this right to the respondents and even otherwise find it inapt to enter the thicket of controvertial facts and the evidence that may have to be led by the parties. Respectfully following the settled line of precedent in this Court in *Khushal Singh and others' case*, and *Dr. Shanti Saroop Sharma and another's case* and *M/s. Amar Singh Modi Lal's case* (supra), I would dismiss the writ petitions and relegate the petitioners to the remedy of establishing their claims in appropriate proceedings in a revenue or civil court as they may be advised.

17. In view of the somewhat intricate issues involved, I leave the parties to bear their own costs.

S. P. Goyal, J.—I agree.

G. C. Mittal, J.—I agree.

N.K.S.

(11) 1980 Rev. L.R. 152.