

Sahkari Ganna Vikas Samiti Ltd. vs Mahabir Sugar Mills (P) Ltd. on 20 July, 1981

Equivalent citations: AIR1982SC119, (1981)4SCC158, 1982 ALL. L. J. 49, 1981 (4) SCC 158, AIR 1982 SUPREME COURT 119, 1982 ALL. L. J. 49 (1982) 2 SCJ 237, (1982) 2 SCJ 237

Bench: A.P. Sen, S. Murtaza Fazal Ali

JUDGMENT

1. Special leave granted.

2. We have heard counsel for the parties. The only ground on which the High Court reversed the judgment of the Commissioner entertaining the appeal was that Section 5 of the Limitation Act was not applicable. The High Court itself found that so far as the Commissioner of the Division is concerned he was undoubtedly a Revenue Court but it held that as the matter arose out of U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953, the Commissioner was exercising appellate jurisdiction as an authority under the said Act and was therefore persona designata. There is no doubt that the Cane Commissioner is highest authority under the Act and if the intention of the legislature was that appeal should lie to a Special Tribunal, then it would have clearly provided that the appeal should lie to the Cane Commissioner and not to the Divisional Commissioner. This fact which does not appear to have been noticed by the High Court clearly shows that the Divisional Commissioner was made an appellate Court not as persona designata but was acting as a revenue Court. If this is the position, it is obvious that Section 5 of the Lim Act applied and hence the Divisional Commissioner had ample power under Section 5 of the Lim. Act to condone the delay. We, therefore, allow this appeal, set aside the judgment of the High Court and remit the Case to the Divisional Commissioner for hearing the appeal on merits. The appeal is disposed of accordingly with no order as to costs.