HASINUDDIN KHAN AND ANR. A

v.

DEPUTY DIRECTOR OF CONSOLIDATION AND ORS.

September 13, 1979

[Y. V. CHANDRACHUD, C.J., V. R. KRISHNA IYER, N. L. UNTWALIA, B
P. N. SHINGHAL AND A. D. KOSHAL, JJ.]

U.P. High Court (Abolition of Letters Patent Appeals) Act, 1972 and U.P. High Court (Abolition of Letters Patent Appeals) (Amendment) Act, Act 33 of 1972—Constitutional validity of—Inherent powers of Court to condone delay and permit additional evidence.

C

HELD : Neither the U.P. High Court (Abolition of Letters Patent Appeals) Act, 1962 nor the U.P. High Court (Abolition of Letters Patent Appeals) (Amendment) Act, 1962, is unconstitutional. [1208C]

State of Bombay v. *Narothamdas,* [1951] S.C.R. 51; *Union of India* v. *Mohindra Supply Co.* [1962] 3 S.C.R. 497 and *Ram Adhar Singh* v. *Ramroop Singh & Ors.,* [1968] 2 S.C.R. 95; followed.

D

[The Court under its inherent powers condoned the delay in filing of S.L.P. challenging the decision of the High Court on merits and allowed the petitioner to urge additional grounds except on constitutional points].

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1394/74, 543/75 and 242/79. E

Appeals from the Judgment and Order dated 22-5-1973 of the Allahabad High Court in Special Appeals Nos. 26/73, 682/72 and 502/72.

AND F

SPECIAL LEAVE PETITION (CIVIL) No. 2152 of 1974.

From the Judgment and Order dated 22-5-1973 of the Allahabad High Court in Spl. Appeal No. 469/72.

J. P. Goyal and *S. K. Jain* for the Appellants in CA 1394/74.

G. S. Chaterjee for the Petitioners in SLP 2152/74. G

A. P. S. Chauhan and *V. C. Prashar* for the RR 3 & 4 in CA 1394/74.

S. N. Andley, Uma Datta and *Tara Chand Sharma* for the Appellants in CA 543/75. H

R. N. Dixit for the Appellant in CA 242/79.

E. C. Agarwala for the Respondent in CA 543/75.

A The Judgment of the Court was delivered by

CHANDRACHUD, C.J.—In view of the Judgment of this Court in *State of Bombay* v. *Narothamdas, Jethabhai & Anr.*(1) *Union of India* v. *Mohindra Supply Company*(2) and *Ram Adhar Singh* v. *Ramroop Singh & Ors.*(3) and in view of the fact that the Special Leave Petition B filed against the judgment rendered by the High Court of Allahabad, upholding the validity of the 1962 Act was dismissed by the Constitution Bench of this Court after an elaborate argument, there is no substance in the contention that either the U.P. High Court (Abolition of Letters Patent Appeals) Act, 1962 or the U.P. High Court (Abolition of Letters Patent Appeals) (Amendment) Act, Act 33 of 1972 is un- C constitutional. The challenge to these Acts on the ground of their unconstitutionality is, therefore, rejected. Learned counsel appearing on behalf of the appellants have very fairly conceded that position. Accordingly, the Civil Appeals and the Special Leave Petition are dismissed. There will be no order as to costs.

D However, the appellants may, if so advised, ask for special leave to appeal from the judgment of the learned single judge. We are sure that the delay caused in filing the S.L.Ps in this Court will be condoned since the appellants were pursuing their remedy by filing these appeals in this Court.

E Learned counsel for the appellant in Civil Appeal No. 543/75 says that the appellant has already filed special leave petition (Civil) No. 361 of 1976 in this Court challenging the decision of the learned single judge of the Allahabad High Court on the merits of the matter. He has also filed an application seeking leave of this Court for urging additional grounds and an application for condonation of delay in filing F the Special Leave Petition. The petition for permission to urge additional grounds, except on Constitutional points, shall be treated as having been filed in the S.L.P. These three petitions will be listed before the Division Bench on 4-10-1979.

S.R.

(1) [1951] S C. R. 51.
(2) [1962] 3 S.C.R. 497.
(3) [1968] 2 S.C.R. 95.