

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 279 OF 2012

DHEERENDRA KUMAR MISHRA

.. Appellant (s)

Versus

STATE OF MADHYA PRADESH & ORS.

.. Respondent(s)

O R D E R

The appellant entered into a contract with the State of Madhya Pradesh for supply of 12,000 Kgs. Of Bhang during the Financial Year 1990-1991 commencing from 1.4.1990. Penalty of Rs.40/- per Kg. for short supply of Bhang pursuant to a contract, was imposed on the appellant by the Commissioner of Excise, Madhya Pradesh by an Order dated 26.4.1993.

Aggrieved by the said order imposing penalty, an appeal was filed by the appellant before the Board of Revenue, Madhya Pradesh which was dismissed. The order of the Board of Revenue, Madhya Pradesh was upheld by the learned Single Judge of the High Court of Madhya Pradesh, Gwalior Bench. The judgment of the learned Single Judge was affirmed by the Division Bench, aggrieved by which, this appeal is filed.

Imposition of penalty at 40/- per Kg. in addition to the forfeiture of the earnest money, is the grievance of

the appellant in this appeal.

Learned counsel for the appellant submits that the contract was frustrated because the State of Uttar Pradesh did not grant him export permit and he could not have supplied Bhang without the export permit being issued by the State of Uttar Pradesh.

We do not agree. The appellant committed breach of the contract which he entered into with the State of Madhya Pradesh and the payment of Rs.40/- per Kg. for the short supply of Bhang is the amount which represents the prevailing excise duty. There is no infirmity in the order of penalty which was affirmed by the High Court.

For the afore-mentioned reasons, the appeal is dismissed.

Pending application(s), if any, shall stand disposed of.

.....J.  
( L. NAGESWARA RAO )

.....J.  
( DEEPAK GUPTA )

New Delhi,  
Dated: March 03, 2020

ITEM NO.106

COURT NO.11

SECTION IV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 279/2012

DHEERENDRA KUMAR MISHRA

Appellant(s)

VERSUS

STATE OF M.P. &amp; ORS.

Respondent(s)

Date : 03-03-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE DEEPAK GUPTAFor Appellant(s) Mr. A.K. Panda, Adv.  
Mr. Jabar Singh, Adv.  
M/S. V. Maheshwari & Co., AORFor Respondent(s) Mr. Varun K. Chopra, Adv.  
Mr. Gurtej Pal Singh, Adv.  
Mr. Harsh Parashar, AOR  
Mr. Samar Vijay Singh, AORUPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the Signed Order.

Pending application(s), if any, shall stand disposed  
of.(GEETA AHUJA)  
COURT MASTER (SH)(ANAND PRAKASH)  
BRANCH OFFICER

(The Signed Order is placed on the file)