

Union Of India Ors vs United Collieries Ltd. & Ors on 3 December, 1984

Equivalent citations: 1985 AIR 192, 1985 SCR (2) 209, AIR 1985 SUPREME COURT 192, 1985 (1) SCC 305, 1985 UJ (SC) 522, (1985) 2 SCR 209 (SC), (1985) 50 FACLR 166, (1985) 1 CURCC 615

Author: A.P. Sen

Bench: A.P. Sen, O. Chinnappa Reddy, E.S. Venkataramiah

PETITIONER:
UNION OF INDIA ORS.

Vs.

RESPONDENT:
UNITED COLLIERIES LTD. & ORS.

DATE OF JUDGMENT 03/12/1984

BENCH:
SEN, A.P. (J)
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SEN, A.P. (J)
REDDY, O. CHINNAPPA (J)
VENKATARAMIAH, E.S. (J)

CITATION:
1985 AIR 192 1985 SCR (2) 209
1985 SCC (1) 305 1984 SCALE (2) 899
CITATOR INFO :
RF 1986 SC1234 (40)

ACT:
Coal Mines (Nationalisation) Act 1973 Section 2 (h)(xii)-Definition of "Mine"-Whether a staff car of the Technical Advisor to the North Chirimiri Collieries Limited which was nationalised under section (3)(i) of the Coal Mines (Nationalisation) Act 1973 with effect from May 1, 1973 was or was not covered by the definition of the term "mine" in section 2(h)(xii) and therefore stood transferred to, and become vested in, the Central Government free from all encumbrances.

HEADNOTE:

An Ambassador car No. MHX 3771 was purchased by M/s. Karamchand Thapar & Bros. (Coal Sales) Ltd, Delhi in the year 1966 and was transferred to respondent No. 1 United Collieries Ltd., the owners in relation to the North Chirimiri Collieries, and it was, therefore, the owner of the said vehicle. On and from the appointed day i.e. May 1, 1973, the right, title and interest of the owners in relation to the coal mines specified in the schedule stood transferred to and became vested in the Central Government free from all encumbrances, under sub-section (1) of section 3 of the Coal Mines (Nationalisation) Act, 1973. Immediately after the nationalisation of the coal mines, the Deputy Custodian General, Coal Mines Authority Limited, Nagpur addressed a letter dated May 9, 1973 to the Technical Advisor to the North Chirimiri Collieries using the said staff car to hand over if to the custodian. Since the car was not handed over on the plea that it was not used by the Technical Advisor exclusively for the North Chirimiri Collieries but used by him for looking after the multifarious activities of the Thapar Group of industries which was a composite concern With the businesses other than coal mining, and therefore although the car belonged to respondent No. 1, the owners of the North Chirimiri Collieries, it was not a staff car 'belonging to the mine'. The Managing Director, Western Division, Coal Mines Authority by an order dated August 9, 1983 directed the respondents to hand over possession of the car failing which they would be liable to prosecution under the Act. Thereupon, respondent No. 1 and the Technical Advisor assailed his order by a petition under Art. 226 of the Constitution before the Nagpur Bench of the Bombay High Court. The High Court purporting to rely on the decision of this Court in New Satgram Engineering Works & Anr. v. Union of India [1980] 4 S C.C. 570. held that the question as to whether the staff car should be treated as belonging to the owner of a mine as part of the

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mine itself raised disputed questions of fact relating to its user which would have to be determined on the basis of evidence. It accordingly discharged the rule and left the parties to have their rights adjudicated in a civil suit. Feeling aggrieved. Union of India preferred the appeal by special leave as the question involved affected a large number of cases.

Allowing the appeal, the Court

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HELD: Parliament by an enlarged definition of 'mine' in section 2(h) of the Act has indicated the nature of the properties that vest and the question whether a particular asset is taken within the sweep of section 2(h) depends on whether it answers the description given therein. The staff car in question was undoubtedly a fixed asset of the North Chirimiri Collieries Ltd., the owners in relation to the

said mine, being the staff car of the Technical Advisor, was a fixed asset' belonging to the mine. 'Fixed assets' in general comprise house assets which are held for the purpose of conducting a business, in contradistinction to those assets which proprietor they include real estate, building, machinery etc. The staff car, therefore, fell within the definition of 'mine' as contained in section 2(h)(xii) and vested in the Central Government under subsection (1) of section 3 of the Coal Mines (Nationalisation) Act, 1973. Merely because the Technical Advisor was putting the staff car to his personal use or for multifarious activities of the Thapar Group of Industries would not alter the true legal position since the subsequent user for a different purpose was not really germane. [214D-G]

There is a difference in the language used in section 2(h)(xi) and (xii) Sub-clause (xi) uses the words 'if solely used' in relation to lands and buildings for the location of the management, sale or liaison offices, or for the residence of officers and staff, of the mine, while sub-clause (xii) uses the words 'belonging to the owner of mine, wherever situated'. The difference in language between the two expressions 'if solely used' and 'belonging to the owner of a mine' is obvious. The observations of this Court in New Satgram Engineering Works case that "where there is a dispute as to whether a particular property vest in the Central Government or not under sub-s.(i) or S. 3 of the Act, the dispute undoubtedly is a civil dispute and must therefore be resolved by a suit" were made in the context of s. 2(h)(xi) of the Act. In that case it was observed that was therefore possible to contend that lands and buildings appurtenant to a coal mine, if not exclusively used for the purpose of the colliery business, would not come within the definition of mine' in section 2(h) i.e it would depend upon the nature of user, and that the crucial date is the date of vesting. The present case is clearly covered by section 2(h)(xii) and not by section 2(h)(xi).

[213G-H; 214A-B ; 213A-B]

New Satgram Works & Anr. v. Union of India [1980] 4 S.C.C. 570 distinguished

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4512 of Appeal by Special leave from the Judgment and order dated the 27th October, 1980 of the Bombay High Court in S.C.A. NO. 1021 of 1973.

M.S. Gujral, R.N. Poddar and Dalveer Bhandari for the appellant.

U.R. Lalit, N.M. Ghatate and S.V. Deshpande for the Respondent.

The Judgment of the Court was delivered by SEN, J. This appeal by special leave directed against the judgment and order of a Division Bench of the Bombay High Court at Nagpur dated October 27, 1980 raises a questions to whether a staff car of the Technical Advisor to the North Chirimiri Collieries owned by respondent No. 1, the United Collieries Limited, which was nationalized under sub-s.(l) of s.3 of the Coal Mines (Nationalization) Act, 1973 w.e.f. May 1, 1973, was or was not covered by the definition of the term 'mine' in s.2(h)(xii) and therefore stood transferred to, and became vested in, the Central Government free from all encumbrances.

It is common ground that the Ambassador car No. MHX 3771 was purchased by Messrs Karamchand Thapar & Bros. (Coal Sales) Ltd., Delhi in the year 1966 and was transferred to respondent No. 1, United Collieries Limited, the owners in relation to the North Chirmiri Collieries, and it was therefore the owner of the said vehicle. On and from the appointed day i.e. May 1, 1973, the right, title, and interest of the owners in relation to the coal mines specified in the Schedule stood transferred to, and became vested absolutely in, the Central Government free from all encumbrances, under sub-s.(1) of s.3 of the Act. It is also not in dispute that the vehicle had been placed at the disposal of one D.D. Diddi, the Technical Advisor to the North Chirimiri Collieries to be used as his staff car. Immediately after the nationalization of the coal mines, the Deputy Custodian General, Coal Mines Authority Limited, Nagpur addressed a letter dated May 9, 1973 to the aforesaid D. D. Diddi requiring him to hand over the staff car to the Custodian. In his reply dated May 25, 1973, he asserted that although the said car belonged to respondent No. 1 and had been allotted to him for use as a staff car, it was not used exclusively for the North Chirimiri Collieries but used by him for looking after the multifarious activities of the Thapar Group of Industries which was a composite concern with businesses other than coal mining. It is not necessary for us to refer to the long correspondence that A ensued between the parties.

Eventually, the Managing Director, Western Division, Coal Mines Authority Ltd., Nagpur addressed letters dated August 9, 1973 both to respondent No. 1 and the erstwhile Technical Advisor stating that on coming into force of the Act the right, title and interest of the North Chirimiri Collieries vested in the Central Government under sub-s.(1) of s.3 of the Act and therefore the car which was an asset belonging to the mine vested in the Central Government It further stated that if they failed to hand over possession of the car, they would be liable to prosecution under the Act. Thereupon respondent No. 1, United Collieries Limited, the owners of the coal mine, and the aforesaid D.D. Diddi, the erstwhile Technical Advisor of the North Chirimiri Collieries. filed a petition under Art. 226 of the Constitution before the Nagpur Bench of the High Court. The High Court held that the question as to whether the staff car should be treated as belonging to the owner of a mine as part of the mine itself raised disputed questions of fact relating to its user which would have to be determined on the basis of evidence. In taking that view, the High Court purported to rely upon the decision of this Court in *New Satgram Engineering Works & Anr. v. Union of India & Ors.*(l) and left the parties to have their rights adjudicated in a civil suit. It accordingly discharged the rule directing respondent No. 1 to establish its claim by filing a civil suit with a direction that in the event of such a suit being filed, the Civil Court will consider the making of an appropriate order for the grant of interim relief on condition of furnishing of adequate P security keeping in view that the Coal Mines Authority had been deprived of the staff car for all these years.

We are afraid, the judgment of the High Court cannot be sustained. It failed to appreciate that in dealing with the question whether or not staff car was covered by the definition of 'mine' in s.2(h)(xii) the nature of its user was immaterial. Undoubtedly, the staff car belonged to respondent No. 1, the United Collieries Ltd., the owners in relation to the mine, and it being the staff car of the Technical Advisor of the North Chirimiri Collieries, was an asset belonging to the mine. The High Court should therefore have (1) [1980] 4 SCC 570.

answered the question in favour of the appellants and dismissed the writ petition on merits. Instead it misdirected itself into thinking A that the matter was covered by the decision of this Court in New Satgram Engineering works' case, supra, where it was observed that where there is a dispute as to whether a particular property vests in the Central Government or not under sub-s.(l) of s.3 of the Act, the dispute undoubtedly is a civil dispute and must therefore be resolved by a suit. These observations of the Court in New Satgram Engineering Work.s' case were made in the context of s.2(h)(xi).

In the Act, 'mine' in s.2(h) is defined, except what is immaterial, in the following terms:

"2. Definitions-In this Act, unless the context otherwise requires,-

(h) 'mine' means any excavation where any operation for the purpose of searching for the obtaining minerals has been or is being carried on. and includes-

(vi) all lands, buildings, works, adits, levels, planes, machinery and equipments, instruments, stores, vehicles railways, tramways and siding in, or adjacent to a mine and used for the purposes of the mine,

(xi) all lands and buildings other than those referred to in sub-clause (x), wherever situated, if solely used for the location of the management, sale or liaison offices, or for the residence of officers and staff, of the mine;

(xii) all other fixed assets, movable and immovable, belonging to the owner of a mine, wherever situated, and current assets, belonging to a mine, whether within its premises or outside."

It will be seen that there is difference in the language used in s.2(h)(xi) and (xii). Sub-cl. (xi) uses the words 'if solely used' in relation to lands and buildings for the location of the management sale or liaison offices, or for the residence of officers and staff, or the mine, while sub- cl.(xii) uses the words 'belonging to the owner of a mine, wherever situated'. The difference in language between the two expression 'if solely used' and 'belonging to the owner of a mine' is obvious. In New Satgram Engineering Works' case, this Court observed that it was therefore possible to contend that lands A and buildings appurtenant to a coal mine, if not exclusively used for the purposes of the colliery business, would not come within the definition of 'mine' in s.2(h) i.e. it would depend upon the nature of user, and that the crucial date is the date of vesting. It then went on to say that the distinction though apparent may not be real in the facts and circumstances of a particular case. The

workshop or a building constructed initially for the purposes of a coal mine cannot by itself being diverted to other purposes cease to belong to a mine. What is of essence is whether the workshop or building originally formed a part and parcel of a coal mine. The Court laid down that the subsequent user may not be very material. The High Court was clearly in error in directing the parties to have the matter settled by a civil suit.

Parliament by an enlarged definition of 'mine' in s.2(h) of the Act has indicated the nature of the properties that vest and the question whether a particular asset is taken within the sweep of s.2(h) depends on whether it answer the description given therein. The staff car in question was undoubtedly a fixed asset of the North Chirimiri Collieries and it, belonging to respondent No. 1 the United Collieries Ltd., the owners in relation to the said mine, being the staff car of the Technical Advisor, was 'fixed asset' belonging to the mine. It is rightly not suggested that the staff car was not a fixed asset. 'Fixed assets' in general comprise those asset which are held for the purpose of conducting a business, in contradistinction to those assets which the proprietor holds for the purpose of converting into cash, and they include real estate, building, machinery etc.; Words & Phrases, Permanent Edition, Vol. 17, p. 161; Blacks Law Dictionary, 5th edn., p.573; Stroud's Judicial Dictionary, 4th edn., Vol.1, p.201. The staff car therefore fell within the definition of 'mine' as contained in s.2(h)(xii) and vested in the Central Government under sub-s. (1) of s.3 Coal Mines (Nationalization) Act, 1973. Merely because the Technical Advisor was putting the staff car to his personal use or for multifarious activities of the Thapar Group of industries would not alter the true legal position since the subsequent user for a different purpose was not really germane.

For these reasons, the appeal must therefore succeed and is allowed, with costs. The judgment and order passed by the High Court dated October 27, 1980 relegating the parties to a civil suit is set aside and the writ petition filed by the respondents is dismissed.

S.R.

Appeal allowed.