Bihar Mines Ltd. vs Union Of India (Uoi) on 3 October, 1966

Equivalent citations: AIR1967SC887, 1967(0)BLJR363, [1967]1SCR707

Bench: K. Subba Rao, M. Hidayatullah, R.S. Bachawat, S.M. Sikri

JUDGMENT

Raghubar Dayal, J.

1. These three appeals, by special leave, are directed against the orders of the Central Government dated January 18, 1962, on applications for revision under r. 7 of the Mining Leases (Modification of Terms) Rules, 1956, hereinafter called the 1956 rules, in respect of the orders passed by the Controller of Mining Leases, Nagpur, on July 1, 1961, in Cases Nos. H-317, H-317A and H-317B.

2. The appeals arise thus. On August 11, 1928, Raja Ran Bahadur Singh of Palganj, in Bihar, executed a lease with respect to a certain area of his estate in favour of Babu Tribang Murari Chakravarti of Asansol for a period of 49 years for the purpose of carrying out mining operations in the said area for soap stone, kaoline etc. Chakravarti, the head lessee, executed a sub-lease in favour of Deoji Jairam Solanki on May 18, 1933. Solanki, in his turn, granted a sub-lease in respect of the same area in favour of M/s. Hirji Premji Parmar & Brothers on May 18, 1934. On October 18, 1954, M/s. Hirji Premji Parmar & Brothers, assigned their right, title and interest in the said area in favour of the appellants, the Bihar Mines Ltd., Calcutta, for a period of 19 years and 7 months expiring on May 17, 1974.

3. The Bihar Land Reforms Act, 1950 (Act 30 of 1950), hereinafter called the Reforms Act, came into force on September 25, 1952. On July 13, 1953, the Government of Bihar issued a notification under sub-s. (1) of s. 3 declaring that the estate of Palganj passed to and became vested in the State. On January 26, 1955, the State Government issued a notification under s. 3A of the Reforms Act declaring that the intermediary interests of all intermediaries in the whole estate had passed to and become vested in the State. Chakravarti's mining rights in the area comprised in the lease became subject to the provisions of s. 10 of the Reforms Act.

4. In 1948, the Mines and Minerals (Regulation and Development) Act, 1948 (Central Act 53 of 1948), hereinafter called the 1948 Act, was enacted for the regulation of Mines. Section 4(1) of this Act, provided that no mining leases would be granted after the commencement of the Act otherwise than in accordance with the rules made under that Act. Sub-s. (2) provided that any mining leases granted contrary to sub-s. (1) would be void and of no effect. Section 5 empowered the Central Government to make rules for regulating the grant of mining leases in respect of any mineral or in any area. Section 7 empowered the Central Government to make rules for the purpose of modifying and altering the terms and conditions of any mining leases granted prior to the commencement of

the Act so as to bring such leases into conformity with the rules made under s. 5.

5. The Mineral Concession Rules, 1949, hereinafter called the 1949 rules, were made by the Central Government in the exercise of its powers under s. 5 of the 1948 Act. The 1956 rules were made by the Central Government in exercise of its powers under s. 7. Rule 6 of the 1956 rules empowered the Controller of Mining Leases, after following the prescribed procedure, to modify any existing mining lease so as to bring it in conformity with the 1948 Act and the 1949 rules.

6. The Mines and Minerals (Regulation and Development) Act, 1957 (Act 67 of 1957), hereinafter called the 1957 Act, repealed the 1948 Act. In view of its s. 29, the 1956 rules continued to be effective.

7. The Controller of Mines took action for the modification of the head lease dated August 11, 1928, and the sub-leases executed in favour of Solanki and Hirji Premji Parmar & Brothers in 1933 and 1934 respectively. Notice was issued to the appellants of the proposed modifications. The appellants, however, do not admit having received the notice of the modifications of the sub-leases. They admit the receipt of the notice for the modification of the head lease. They appeared before the Controller and raised objections to the proposed modifications. The Controller, however, passed an order on July 1, 1961 to the effect that the head lease and the subleases would terminate on July 1, 1961. Against these orders of the Controller the appellant had filed revisions before the Central Government which were rejected. It is against those orders of the Controller and the Central Government that the present appeals have been filed.

8. The first and the main contention for the appellant is that the head lease could not be modified under the 1956 rules as it did not come within the expression 'existing mining lease' as defined in cl. (c) of r. 2 of those rules. 'Existing mining lease' means a mining lease granted before October 25, 1949, and subsisting at the commencement of the 1956 rules, but does not include any leases specified in sub-clauses (i) to (iv) of cl. (c). The head lease was granted in 1928 and would ostensibly come within 'existing mining leases'. The contention, however is that in view of s. 10 of the Reforms Act, the head lease as such came to an end and a new statutory lease under s. 10 replaced it and that therefore this new statutory lease was not a lease granted before October 25, 1949.

9. The contention for the respondent is that the effect of s. 10 of the Reforms Act is that the old lease continued with the State Government substituted as the lessor in the place of the original lessor and that therefore the lease could be modified as an existing mining lease.

10. We agree with the contention for the appellant.

11. The preamble of the Reforms Act states that it was expedient to provide for the transference to the State of the interests of proprietors and tenure-holders in land and of mortgagees and lessees of such interests including interest in trees etc., mines and minerals. Notifications under ss. 3 and 3A of the Reforms Act passed to and vested in the State the estates or tenures of a proprietor or tenure-holder and also the intermediary interests of all intermediaries. No interest thus remains in the lessor, the original proprietor of the land leased. Section 4 of the Reforms Act further

emphasized the consequences of the vesting of the estate or tenure in the State. Clause (a) of s. 4 mentions one of the consequences and states that on the publication of the aforesaid notification, such estate or tenure, including the interests of the proprietor or tenureholder in any building etc., in trees etc., as also his interest in all sub-soil including any rights in mines and minerals whether discovered or undiscovered or whether being worked or not, inclusive of such rights of a lessee of mines and minerals comprised in such estate or tenure other than the interests of raiyats or under-raiyats shall, with effect from the date of vesting, vest absolutely in the State free from all encumbrances and such proprietor or tenure-holder shall cease to have any interests in such estate or tenure other than the interests expressly saved by or under the provisions of the Act. It is clear therefore that the interest of the proprietor or tenure-holder including his rights in mines and minerals, inclusive of rights of a lessee of mines and minerals come to an end and vest absolutely in the State. Having once so vested, certain rights were conferred by statute on the proprietors and tenure-holders and the lessees. Section 9 provides that the mines which were in operation at the commencement of the Act and were being worked directly by the intermediary shall be deemed to have been leased by the State Government to the intermediary and he shall be entitled to retain possession of those mines as a lessee thereof. The mines in the present case were not worked by the intermediary lessor. The lease by the State Government to the intermediary, according to sub-s. (2) of s. 9, was to have such terms and conditions as be agreed upon between the State Government and the intermediary or, in the absence of such agreement, as may be settled by the Mines Tribunal appointed under s. 12 thereof, provided that all such terms and conditions shall be in accordance with the provisions of any Central Act for the time being in force regulating the grant of new mining leases. According to the proviso, therefore, such terms and conditions were to be in accordance with the provisions of the 1948 Act which was in force at the time the estate vested in the State of Bihar.

12. Section 10 deals with leases of mines and minerals which subsisted on the date immediately before the date of vesting of the estate of tenure. It reads :

> "Subsisting leases of mines and minerals -
>
> (1) Notwithstanding anything contained in this Act, where immediately before the date of vesting of the estate or tenure there is a subsisting lease of mines or minerals comprised in the estate or tenure or any part thereof, the whole or that part of the estate or tenure comprised in such lease shall, with effect from the date of vesting, be deemed to have been leased by the State Government to the holder of the said subsisting lease for the remainder of the term of that lease, and such holder shall be entitled to retain possession of the leasehold property.
>
> (2) The terms and conditions of the said lease by the State Government shall mutatis mutandis be the same as the terms and conditions of the subsisting lease referred to in sub-section (1), but with the additional condition that, if in the opinion of the State Government the holder of the lease had not, before the date of the commencement of this Act, done any prospecting or development work, the State Government shall be entitled at any time before the expiry of one year from the said date to determine the lease by giving three months' notice in writing :

> Provided that nothing in this sub-section shall be deemed to prevent any modifications being made in the terms and conditions of the said lease in accordance with the provision of any Central Act for the time being in force regulating the modification of existing mining leases.
>
> (3) The holder of any such lease of mines and minerals as is referred to in sub-section (1) shall not be entitled to claim any damages from the outgoing proprietor or tenure-holder on the ground that the terms of the lease executed by such proprietor or tenure-holder in respect of the said mines and minerals have become incapable of fulfilment by the operation of this Act.

13. The head lease of 1928, subsisted immediately before the date of vesting of the Palganj estate in the State. Therefore, the whole or that part of the estate or tenure comprised in this lease was, with effect from the date of vesting, to be deemed to have been leased by the State Government to the holder of the lease i.e. the first lessee, up to August 11, 1977, the lease being for 49 years. The holder of the lease could retain possession of the leasehold property till then. We may mention that we are not concerned, in this case, with the effect of s. 10A introduced by the Bihar Land Reforms Amendment Act, 1964 (Act 4 of 1965).

14. The terms and conditions of this statutory lease by the State Government were to be the same as the terms and conditions of the subsisting lease i.e., the lease of 1928, with the addition of one condition to the effect that the State Government could terminate the lease at any time before the expiry of one year, by giving three months' notice in writing if it was of opinion that the holder of the lease had not before the date of commencement of the Act done any development work. Any way, this condition was not applicable in the present case as the mine had been worked all along.

15. The terms and conditions of the lease were also subject to the proviso to sub-s. (2) of s. 10 which said that nothing in that sub-section would be deemed to prevent any modifications being made in the terms and conditions of the lease in accordance with the provisions of any Central Act for the time being in force regulating the modification of existing mining leases. This means that the statutory lease could be modified in accordance with the provisions of the 1948 or the 1957 Act. The 1956 rules provided for the modification of the leases granted before October 25, 1949. It follows that in pursuance of the proviso to s. 10, the terms of the statutory lease could not be modified when the lease be held to be a new lease from the date of vesting.

16. It has been urged for the respondent that while the proviso to sub-s (2) of s. 9 states that the terms and conditions of the lease would be in accordance with the provisions of any Central Act for the time being in force regulating the grant of new mining leases, the proviso to sub-s. (2) of s. 10 does not use the expression 'new mining leases' and that therefore it should be held that the statutory lease under s. 10 is not a new mining lease. A statutory lease granted to the intermediary under s. 9 is a new lease and its terms and conditions are to be in accordance with the provisions of the Central Act regulating the grant of new mining leases. As a new lease, it had to be in accordance with the provisions regulating the grant of new mining leases. The proviso to sub-s. (2) to s. 10 had to use the expression 'existing mining leases' in contradistinction to the expression 'new mining

leases' in proviso to s. 9(2) as modifications in the terms and conditions of the statutory lease under s. 10 might be made only in accordance with the provisions of the Central Act regulating the modifications of the 'existing mining leases', if the expression 'existing mining leases' was ultimately defined to include a statutory lease under s. 10. When the Reforms Act was passed the expression had not been defined. No help can therefore be derived by the respondent from the difference in language in the proviso to sub-s. (2) of s. 9 and the proviso to sub-s. (2) of s. 10.

17. It has also been urged for the respondent that what is to be deemed under s. 10(1), Reforms Act, is for the purposes of the Reforms Act only, i.e., the estate is to be deemed to be leased by the State Government for the purposes of the Act only and not for the purposes of the Acts of 1948 and 1957. We do not agree. The effect of the estate being deemed to be leased by the State Government is that the erstwhile lessee of the intermediary becomes actually the lessee of the State Government for all purposes from the date of the vesting of the estate in the State. He cannot be deemed to be a lessee of the intermediary whose title is lost under the original lease.

18. We are therefore of opinion that the statutory lease now held by the head lessee from the State Government is a new lease granted after October 25, 1949. It follows that the Controller had no jurisdiction to modify the terms of the lease which is granted by the State Government to the head lessee in view of sub-s. (1) of s. 10. When the head lease could not be modified, it being not an existing mining lease, the sub-leases could also not be modified. They too would be deemed to be new leases granted by the new lessee from the State Government, as the rights of the lessor under the original head lease had ceased on the vesting of the estate and he is deemed to have got a new lease from the State.

19. We need not therefore, in these appeals, deal with the other points urged by Mr. Sen for the appellant. In our view the Controller could not have modified the lease in suit under the 1957 Act and the 1956 rules.

20. We allow the appeals, set aside the order of the Controller dated July 1, 1961 and of the Government of India dated January 18, 1962. The respondents will pay the costs of the appellant.

Bachawat, J.

21. Counsel for the appellant submitted that a lease for extracting mineral from a mine is not a lease for the purpose of winning a mineral within the purview of Art. 31A(1)(e) of the Constitution, and as the Mines and Minerals (Regulation and Development) Act, 1957 (No. 67 of 1957) enables the compulsory acquisition of such a lease by prematurely terminating it without payment of compensation, it contravenes Art. 31 and is not protected by Art. 31A(1)(e). Relying on Lewis v. Fothergill (5 Ch. A.103.) and Lord Rokeby's case (7 A.C. 43, 13 Ch. D. 277; 9 Ch. D. 685.), he submitted that a mineral is won when it is reached and is ready for continuous working. In the collocation of words "work and win", the expression "win" might be construed to mean some activity preparatory to the working and extraction of the mineral. But we see no reason for giving this narrow meaning to the expression "winning" in Art. 31A(1)(e) of the Constitution or in s. 3(d) of the Mines and Minerals (Regulation and Development) Act, 1957. In a popular sense, winning a mineral

means getting or extracting it from the mine. This is one of its dictionary meanings, see The Shorter Oxford Dictionary. The plain and popular import of the expression furnishes the true rule of the interpretation of Art. 31A(1)(e). A law providing for the premature termination of a lease for getting or extracting a mineral is protected by Art. 31A(1)(e), and cannot be attacked on the ground that it contravenes Art. 14, 19 or 31.

22. The Mining Leases (Modification of Terms) Rules, 1956 were made on September 6, 1956 under the Mines and Minerals (Regulation and Development) Act, 1948. By s. 29 of the Mines and Minerals (Regulation and Development) Act, 1957, all rules made or purporting to have been made under the 1948 Act are deemed to have been made under the 1957 Act as if the latter Act had been in force on the date on which the Rules were made. Counsel for the appellant submitted that the 1956 Rules were invalid (a) as they were laws with respect to acquisition of property for State purposes, which could be made by the State Legislature only under Entry 36, List II, as it stood before the Constitution (Seventh Amendment) Act, 1956, and (b) as they did not provide for payment of compensation in conformity with s. 7(2)(b) of the 1948 Act, and having regard to the observations of Mudholkar, J. in Bharat kala Mandir v. Municipal Committee, Dhamangaon ([1965] 3 S.C.R. 498 at pp. 512-516.), the invalid Rules could not be regarded as purporting to have been made under the 1948 Act. We cannot accept this contention. The Central Government professed to make the Rules in exercise of its powers under s. 7 of the pre-Constitution 1948 Act. The power to make the Rules was conferred on the Government by s. 7 of the 1948 Act and not by Entry 36, List II of the Constitution. As the Rules did not provide for payment of compensation in cases of reduction of the term of the lease in conformity with s. 7(2)(b) they might not have been originally valid; but they purported, to have been made under the 1948 Act. In view of s. 29 of the 1957 Act, the Rules must now be deemed to have been made under the 1957 Act as if that Act was in force when the Rules were made. The validity of the Rules must now be judged with reference to the 1957 Act. As the Rules are in conformity with the 1957 Act, they must be regarded as validly made under it.

23. The main contention of counsel for the appellant was that the leases were not existing leases within the meaning of r. 2(c) of the Mining Leases (Modification of Terms) Rules, 1956. Under r. 2(c), an 'existing mining lease' means a mining lease granted prior to the commencement of the Mines and Minerals (Regulation and Development) Act, 1948, i.e., prior to October 25, 1949. Counsel submitted that there were grants of new leases by force of s. 10 of the Bihar Land Reforms Act, 1950 (Bihar Act No. 30 of 1950), and these new leases could not be modified under the 1956 Rules.

24. The lease by the Zamindar of Palganj is dated August 11, 1928. The sub-lease is dated May 18, 1933. The under-lease granted by the sub-lessee is dated May 18, 1934. The Bihar Land Reforms Act was passed on September 11, 1950. It came into force on September 25, 1952. Sections 3 and 3A provide for the issue of notifications vesting estates, tenures and intermediary interests in the State of Bihar. The estate of the Zamindar vested in the State as from July 13, 1953 on the issue of the notification under s. 3(1). The intermediary interests vested in the State as from January 26, 1955 on the issue of a notification under s. 3A. By s. 4, on the issue of the requisite notification the estate or tenure including the rights of the proprietor or tenure-holder in mines and minerals and inclusive of such rights of a lessee of mines and minerals comprised in the estate or tenure vested absolutely in

the State free from all encumbrances subject to the subsequent provisions of Chap. II of the Act. Sections 9, 10 and 11 are in Chapter II. Section 9 contains a special provision with regard to mines worked by a proprietor or tenure-holder, and is in these terms :

> "9. (1) With effect from the date of vesting, all such mines comprised in the estate or tenure as were in operation at the commencement of this Act and were being worked directly by the intermediary shall, notwithstanding anything contained in this Act, be deemed to have been leased by the State Government to the intermediary, and as the case may be and such proprietor or tenure-holder shall be entitled to retain possession of those mines as a lessee thereof.
>
> (2) The terms and conditions of the said lease by the State Government shall be such as may be agreed upon between the State Government and the intermediary as the case may be, or in absence of agreement as may be settled by a Mines Tribunal appointed under section 12;

Provided that all such terms and conditions shall be in accordance with the provisions of any Central Act for the time being in force regulating the grant of new mining leases."

25. In this case, we are not directly concerned with s. 9. Section 10 especially provides for subsisting leases for mines and minerals. Section 11 deals with buildings and lands appurtenant to mines referred to in ss. 9 and 10. Section 10 is in these terms :

> "10. (1) Notwithstanding anything contained in this Act, where immediately before the date of vesting of the estate or tenure there is a subsisting lease of mines or minerals comprised in the estate or tenure or any part thereof the whole or that part of the estate or tenure comprised in such lease shall with effect from the date of vesting, be deemed to have been leased by the State Government to the holder of the said subsisting lease for the remainder of the term of that lease, and such holder shall be entitled to retain possession of the leasehold property.
>
> (2) The terms and conditions of the said lease by the State Government shall mutatis mutandis be the same as the terms and conditions of the subsisting lease referred to in sub-section (1), but with the additional condition that, if in the opinion of the State Government the holder of the lease had not before the date of the commencement of this Act, done any prospecting or development work, the State Government shall be entitled at any time before the expiry of one year from the said date to terminate the lease by giving three month's notice in writing.

Provided that nothing in this sub-section shall be deemed to prevent any modifications being made in the terms and conditions of the said lease in accordance with the provisions of any Central Act for the time being in force regulating the modification of existing mining leases.

(3) The holder of any such lease of mines and minerals as is referred to in sub-section (1) shall not be entitled to claim any damages from the outgoing proprietor or tenure-holder on the ground that the terms of the lease executed by such proprietor or tenure-holder in respect of the said mines and minerals have become capable of fulfilment by the operation of this Act."

26. Mark the opening words of s. 10, "Notwithstanding anything contained in this Act." Notwithstanding what is said in ss. 3, 3A and 4 as to vesting of the estate, tenure intermediary interests and rights in mines and minerals, s. 10 holds the field with regard to subsisting leases of mines and minerals. If there is such a lease, the deeming clause in sub-s. (1) requires that certain consequences will follow. Where immediately before the date of vesting of the estate or tenure there is a subsisting lease of mines or minerals comprised in it, we have to imagine that with effect from the date of vesting, the whole or that part of the estate or tenure comprised in such lease has been leased by the State Government to the holder of the said subsisting lease for the remainder of the term of that lease. How can we imagine this lease without imagining that with effect from the date of vesting, the subsisting lease continues after subsisting the State Government as the lessor in place of the proprietor or tenure-holder ? How else can the estate be deemed to have been leased to the holder of the subsisting lease for the remainder of the term of that lease ? Sub-section (2) tells us the terms and conditions of this lease by the State Government. Lest our imagination might run riot, the proviso to sub-s. (2) tells us that we must keep our fancy in check, and remember that this lease is an existing and not a new lease.

27. The proviso to sub-s. (2) of s. 10 indicates that the lease referred to in the section may be modified in accordance with the provisions of any Central Act for the time being in force regulating the modification of "existing mining leases". Contrast the language of the proviso to sub-s. (2) of s. 9. The terms and conditions of the lease referred to in s. 9 must be in accordance with the provisions of any Central Act regulating "the grant of new mining leases". The two provisos forcefully indicate that s. 9 grants a new lease, whereas s. 10 continues an existing lease.

28. The legislature intended that the terms and conditions of the mining leases referred to in ss. 9 and 10 should be in accordance with the Central Act regulating mining leases. For this purpose, the leases under s. 9 are treated as new leases and the leases under s. 10 are treated as existing leases, so that they may be modified and brought in conformity with the Central Act. Had s. 10 the effect of granting a new lease, the legislature would have treated the lease referred to in s. 10 also as a new lease, and the language of the proviso to sub-s. (2) of s. 10 would have corresponded with that of the proviso to sub-s. (2) of s. 9. The intention of the legislature would be completely frustrated if we are to hold that the leases referred to in sub-s. (2) of s. 10 need not be brought in conformity with the laws regulating mining leases.

29. Section 9 creates from the date of vesting a new lease in favour of the proprietor because before that date he was the owner of the mines and minerals and could not claim to be a lessee. Section 10, on the other hand, continues a lease which was subsisting on the date of vesting. The terms and conditions of the lease are modified and the Government is substituted the lessor in place of the proprietor or the tenure-holder; in other respects, the old lease continues.

30. One other matter clinches the issue. Though by s. 2(2) a lease in relation to mines and minerals includes a sub-lease, this definition cannot apply to s. 10. The subsisting lease referred to in s. 10(1) cannot include a sub-lease. Obviously, the State Government cannot grant a lease and a sub-lease in respect of the same subject-matter at the same time. Section 10(1) continues the subsisting lease. As the lease continues, the sub-lease also continues. Had s. 10(1) the effect of destroying the old lease, the sub-lease also would fall along with the head lease. The grant of a new lease would not revive the original sub-lease. There can be no doubt that in spite of s. 10 the sub-lease was continued. Section 10A was enacted by Bihar Act No. 4 of 1965 on this footing. In view of s. 10-A, the interest of the lessee now vests in the Government, and the last sub-lessee holds his lease directly under the State Government. We are, therefore, satisfied that the lease and the sub-leases were existing mining leases within the meaning of r. 2(c) of the Mining Leases (Modification of Terms) Rules, 1956 and could be modified under the Rules.

31. Counsel next submitted that the Controller by his orders dated July 1, 1961 could not terminate the lease and he could only scale down the period of the lease to 20 years from the date when the Mines and Minerals (Development and Regulation) Act, 1957 came into force, i.e. from June 1, 1958. We are unable to accept this contention. The lease was a mining lease in respect of soap-stone, kaolin and white earth. Section 8 of the Mines and Minerals (Regulation and Development) Act, 1957 and R. 40 of the Mineral Concession Rules, 1949 provide that the period of a mining lease in respect of minerals other than coal, iron ore and bauxite shall not exceed 20 years. Section 16 of the 1957 Act and R. 4(1) of the Mining Leases (Modification of Terms) Rules, 1956 require that the existing leases be brought in conformity with the 1957 Act and the 1949 Rules. The period of an existing lease in respect of soap-stone, kaolin and white earth can be brought in conformity with the Act and the Rules only by an order directing that the period of the lease shall be 20 years from the date of commencement of the lease. How can the period of an existing lease become 20 years unless this period is counted from the commencement of the lease ? The Act and the Rules do not provide for the grant of a new lease for a period of 20 years from the date of the commencement of the Act. They require modifications of the period of an existing lease so as to bring it in conformity with the Act. The periods of 20 years from the leases expired long before July 1, 1961. Accordingly, by his order dated July 1, 1961, the Controller properly terminated the leases.

32. The Controller passed three separate orders in cases Nos. H-317, H-317 A and H-317 B terminating the head lease dated August 11, 1928 and the sub-leases dated May 18, 1933 and May 18, 1934. The requisite notice of the modification of the head lease under Rules 4 and 6 of the Mining Leases (Modification of Terms) Rules, 1956 was given to the head lessee and the sub-lessees in case H-317, and the order in that case cannot be assailed. No notice to the head lessee and sub-lessee was given in cases Nos. H-317 A and H-318 B. The orders of modification of the sub-leases in the last two cases were, therefore, irregularly passed and counsel for the appellant asked us to set aside those orders. But as the head lease was properly terminated by the order in Case No. H-317, the two sub-leases automatically stood terminated. The defect or irregularity in the passing of the orders in cases Nos. H-317 A and H-317 B does not affect the merits of these cases, and we see no reason for reversing those orders.

33. The appeals are dismissed with costs.

ORDER

34. In accordance with the opinion of the majority, Civil Appeals Nos. 172-174 of 1963 are allowed with costs, Civil Appeal No. 113 of 1964 is allowed with costs, Civil Appeal No. 114 of 1964 is dismissed with costs and Civil Appeal No 428 of 1964 is partly allowed with the direction that the parties will bear their own costs.