

Raja Satyendra Narayan Singh & Anr vs State Of Bihar & Ors on 5 May, 1987

Equivalent citations: 1987 AIR 1390, 1987 SCR (3) 224, AIR 1987 SUPREME COURT 1390, 1987 3 JT 356, 1987 BLJR 477, (1987) 2 JT 356 (SC), 1987 BBCJ 163, 1987 2 UJ (SC) 288, (1987) 2 LANDLR 356, (1987) 2 SCJ 464, 1987 (3) SCC 319, (1987) 2 SUPREME 56, (1987) 2 CURCC 328

Author: Sabyasachi Mukharji

Bench: Sabyasachi Mukharji

PETITIONER:

RAJA SATYENDRA NARAYAN SINGH & ANR.

Vs.

RESPONDENT:

STATE OF BIHAR & ORS.

DATE OF JUDGMENT 05/05/1987

BENCH:

MUKHARJI, SABYASACHI (J)

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MUKHARJI, SABYASACHI (J)

NATRAJAN, S. (J)

CITATION:

1987 AIR 1390 1987 SCR (3) 224

1987 SCC (3) 319 JT 1987 (2) 356

1987 SCALE (1) 1180

CITATOR INFO :

RF 1989 SC 682 (13)

ACT:

Bihar Land Reforms Act, 1950 : ss. 3, 9, 10 and 25--Minerals not exploited by the ex-landlord on date of vesting of the estate--Right of ex-intermediary to get compensation for such minerals.

Interpretation of Statutes--Rules of Construction--Statute to be read as a whole and in the context--Statutory rules to be harmoniously read with Statute--Statute providing for assumption and enforcement of an existing liability not to be construed as extending that liability or creating new one in absence of clear terms to that effect.

HEADNOTE:

Section 3 of the Bihar Land Reforms Act, 1950 provides for vesting of an estate or tenure in the State by notification. Under s. 9 from the date of such vesting all mines comprised in the estate or tenure, as were in operation at the commencement of the Act and were being worked directly by the intermediary were deemed to have been leased to the intermediary and he was entitled to retain possession thereof. Section 10 provides for vesting of subsisting leases of mines and minerals. Section 25 provides for computation of compensation payable to the intermediary in respect of royalties on account of mines and minerals or directly working mines comprised in the estate or tenure. Rule 25-E of the Bihar Land Reforms Rules, 1951 deals with the procedure for determination of the amount of compensation or annuity.

The estate of the ex-landlord comprising vast areas of mineral bearing lands was vested in the State by virtue of a notification under s. 3 of the Act with effect from 4th November, 1951. Some part of the said area was being worked by the lessees under the leases granted to them, who paid royalty to him.

The ex-landlord died in 1969. His successors-in-interest, the appellants herein, filed writ petition before the High Court claiming compensation in respect of the coal bearing area having coal reserves vested in the State. The High Court came to the conclusion that the ex-intermediary was not entitled to the compensation as claimed, and dismissed the petition.

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In this appeal by certificate, it was contended for the appellants that where there are minerals which were not tapped and not exploited by the ex-intermediary, acquisition of the source of income for the intermediary would be acquisition of property, that there was no provision for compensation for this purpose in the Act, and the statute was, therefore, expropriatory in nature. For the respondents, it was contended that there was no question of expropriation. The property being not in existence, it was acquisition of a right which might be a source or 'income and property it' tapped, but it was not an existing right.

Dismissing the appeal, the Court,

HELD 1. A statute must be read as a whole, fairly and reasonably. It must be so read, if possible, and warranted by the context to give effect to the manifest intent of the framer. So read, it cannot be said that the Bihar Land Reforms Act, 1950 provides for any compensation for the minerals not exploited. That does not make the Act unconstitutional. [232D]

2. The Rules and the sections must be harmoniously construed. In the instant case, the legislature was acquir-

ing the estate of an ex intermediary. For all the existing sources of his income and which were being exploited, compensation has been provided for. But for a right which might become a source of income which had not been exploited, no compensation has been provided. Where a statute provides for the assumption and enforcement of an existing right or liability, it will not be construed as extending that liability or creating a new one unless it does so in clear terms. [231F]

Halsbury's Laws of England, 4th Edition, Vol. 44, page 556, paragraph 904, referred to.

In the instant case there is no question of interpreting any law which will expose the Act to constitutional infirmity. The right was not existing at the time of vesting, no question therefore, arises of depriving the ex-intermediary of any right without compensation. [231G]

3. The basic principle of construction of every statute is to find out what is clearly stated and not to speculate upon latent imponderables. The scheme of the Act does not support the appellant that it is expropriatory in nature. Section 25(1)(a) and (b) deal with independent items and s. 25(1)(c) is a combination of the two. The other sub-sections make it quite clear. Compensation for the acquisition of a source which

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when exploited might become property or income is not necessary. Ownership is a bundle of rights and for the existing bundle of rights compensation has been provided for. [231 H-232B]

4. It is not for the court to provide for compensation where legislature has thought it fit not to do so. The fact that compensation for existing rights has been provided for would not expose the statute to the vice of unconstitutionality as expropriatory. Had there been such a possibility, other considerations might have been there. The Act has been incorporated in Item 1 of the 9th Schedule of the Constitution.] [232C]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 390 of 1981.

From the Judgment and Order dated 31.8. 1979 of the Patna High Court in C.W.J.C. No. 262 of 1979 (R). M.K. Ramamurthy, A.K. Nag and Mrs. Naresh Bakshi for the Appellants.

Jaya Narayan and Pramod Swarup for the Respondents. The Judgment of the Court was delivered by SBYASACHI MUKHARJI, J. This appeal is directed against the judgment and order of the High Court of Patna, (Ranchi Bench) dated 3 1st August, 1979.

It involves the question of the right of ex-intermediaries to get compensation for the minerals which were not exploited by the exlandlords on the date of vesting the estate under Bihar Land Reforms Act, 1950 (hereinafter referred to as the 'Act').

Raja Nilkanth Narayan Singh of Sawagarh estate was the exlandlord whose estate vested by virtue of the notification under the Act with effect from 4th November, 1951. The petitioners before the High Court and the appellants herein are the successors-in-interest being the grandson and the daughter-in-law of the late Nilkanth Narayan Singh. The estate of the ex-landlord comprised, inter alia, tauzi Nos. 14 and 15 of the District Collectorate of Dhanbad within the aforesaid tauzis. These were vast areas of mineral-bearing lands owned by the ex-proprietor of the estate. Some part of the said area was being worked by the lessees under the leases granted to them who paid royalty to late Nilkanth Narayan Singh, afore-said, who, it might be stated, died in November, 1969 in a state of jointness with other appellants. The case of the appellants is that compensation in respect of the coal bearing area having coal reserves i.e. minerals, has not yet been paid by the State of Bihar although the estate had vested in it as early as in November, 1951. So far as the mines that were being worked out or the minerals which were the subject-matter of leases granted by the ex-landlord are concerned, there was no dispute. The appellants are entitled to and have not been denied compensation in respect thereof under the Act, and the Rules. The controversy is only on the question whether the ex-landlord or his successor-in-interest is entitled to compensation for the minerals which were not the subject-matter of any lease granted in favour of any lessee. However, it appears, there is no dispute on the question that had such minerals been the subject-matter of a lease, the ex-intermediary would have been entitled to compensation in respect thereof in the manner provided under the Act to be computed as prescribed by the Rules.

The High Court after an exhaustive discussion of the different provisions of the Act came to the conclusion that ex-intermediary is not entitled to the compensation as claimed for and as such dismissed the application under Article 226 of the Constitution. Being aggrieved by the said decision, the appellants after obtaining a certificate under Article 133(1) of the Constitution have come up to this Court.

The expression 'mines' used in the Act or in the Rules had a distinct connotation namely those minerals that were unworked and unexcavated reserves while excavated mines had been worked. The question, therefore, involves, as the High Court rightly pointed out not only the mines but with minerals located beneath the earth, and neither being worked by ex-intermediary on the date of vesting nor being the subject matter of lease in favour of any third party. The rights of the parties have to be worked out under the provisions of the Act. The Act in question was an Act which was passed to provide for the transference to the State of the interests of proprietors, and tenure-holders in land and of the mortgages and lessees of such interests including interests in trees, forests, fisheries, 'jalkars' ferries, 'hats', 'bazzars' mines and minerals, and to provide for the constitution of a Land Commission for the State of Bihar with powers to advise the State Government on the agrarian policy to be pursued by the State Government consequent upon such transference and for other matters connected therewith. On an analysis of the scheme of the Act, it appears that section 3 of the Act provides for the notification vesting an estate or tenure in the State. It provides, inter alia, that the State Government may, from time to time, by notification declare that the estates or tenures of

a proprietor or tenure-holder, specified in the notification, have passed to and become vested in the State. There was appropriate notification passed in this case. On issuance of the notification, the estates become vested in the State. Section 4 deals with the consequences of vesting. It provides that notwithstanding anything contained in any other law for the time being in force or in any contract, on the publication of the notification notwithstanding anything to the contrary, certain consequences, as mentioned in section 4 would follow. Such consequences are mentioned in clauses (a), (b),

(c), (d) and (e) and other sub-clauses of section 4 of the Act. Section 9 deals with the mines worked by intermediary and it provides that with effect from the date of vesting all such mines comprised in the estate or tenure as were in operation at the commencement of the Act and were being worked directly by the intermediary shall, notwithstanding anything contained in the Act, be deemed to have been leased by the appropriate Government to the intermediary and he shall be entitled to retain possession of those mines as a lessee thereof. The terms and conditions of the said lease would be such as would be agreed upon between the State Government and the intermediary provided that all such terms and conditions shall be in accordance with the provisions of any Central Act for the time being in force. Section 10 deals with the consequences of subsisting leases of mines and minerals and provides for vesting of the same. Section 23 deals with computation of net income for the purpose of preparing compensation assessment-roll of the net income of the intermediary. Section 24 deals with the rates of compensation, and provides that after the net income had been computed under section 23, the Compensation Officer should for the purpose of preparing compensation assessment-roll proceed to determine the amount of compensation to be payable in respect of the transference to the State of the interests of each intermediary. The table is set out in the section. Section 25 is important and deals with the computation of compensation payable for mines and minerals. The relevant portion of it provides, inter alia, as follows:

"25. Computation of compensation payable for mines and minerals.

(1) The Compensation Officer shall prepare in the prescribed form and in the prescribed manner compensation assessment-roll containing in respect of every intermediary in receipt of royalties on account of mines and minerals or directly working mines comprised in the estate or tenure--

(a) his gross income and net income from such royalties;

(b) his gross income from mines worked directly by him and the amount deemed to be his net income from royalties in respect of such mines;

(c) the amount of compensation payable to him under the provisions of this Act for mines and minerals; and

(d) such other particulars as may be pre-

scribed."

Then sub-section (2) of section 25 deals with the preparation of compensation roll for clause (a) of sub-section (1) and sub-section (3) deals with the preparation of compensation roll for clause (b) of sub-section (1). Sub-section (4) deals with the question whether after net income from royalties have been computed under sub-sections (2) and (3), the Compensation Officer should proceed to determine the amount of compensation to be payable to the intermediary in the manner and in accordance with the principles laid down therein.

While we are on the provisions of the Act and the Rules, reference may be made to Bihar Land Reforms Rules, 1951 (hereinafter called the 'Rules'), and Rule 25-E deals with the procedure for determining the approximate amount of compensation or annuity. It provides as follows:

"25-E. Procedure for determining the approximate amount of compensation or annuity.

(1) The approximate amount of compensation in respect of the intermediary interests, other than that payable for mines and minerals, shall be the approximate net income arrived at in the manner laid down in rule 25-C multi-

plied by the appropriate multiple referred to in Sec. 24(1); and the approximate amount of annuity shall be equal to the approximate net income.

(2) The approximate amount of compensation or annuity payable for mines and minerals comprised in the estate or tenures of an intermediary shall be worked out after considering the report to be obtained from the Mining Officer of the existing reserves in the mines or minerals and the probable income therefrom in the future.

(3) The approximate amount of the total compensation or annuity payable to the intermediary shall be arrived at by adding the approximate amount of compensation or annuity payable for mines and minerals to the approximate amount of compensation or annuity in respect of his other interests:

Provided that, if no such information regarding the existing reserves in the mines or minerals and the probable income therefrom in the future is available, the approximate amount of compensation or annuity shall be calculated only on the basis of the net income from the intermediary interests, other than mines or minerals, in accordance with sub-rule (1):

Provided further that the deduction allowed under clause (c) and (cc) of Sec. 4 shall be recovered by deduction from the approximate amount of compensation payable to the intermediary under this rule."

It is clear from the facts brought out by the High Court that all the mines comprised in the estate or tenure of ex-intermediary which were worked out directly by him although vested as a result of the provisions of section 4A were deemed by legal

fiction to be subsequently settled by the State Government in favour of the ex-intermediary and that ex-intermediary should be deemed in law to be statutory lessee under the State Government in respect of the mines which have been worked out by him. It is clear from several provisions of the Act including section 9 that there is no section dealing with the minerals at all. In this connection sections 9 and 10 may be borne in mind.

Section 25 of the Act envisages compensation to be payable for mines and minerals and provides that ex-intermediary shall be paid for the payment to the ex-intermediary who is in receipt of royalties on account of mines and minerals or directly working mines in the estate or tenure consisting of his gross income--namely, income of exintermediary, gross and net income from royalty and his gross income from mines worked directly by ex-intermediary and the amount deemed to be the net income from royalties of his mines; under clause (c) of sub-section (1) of section 25, the amount of compensation payable to him under the provisions of the Act for mines and minerals. On behalf of the State Government it was contended that this item under clause (c) of section 25(1) was nothing additional or extra than clause

(a) plus clause (b) of sub-section (1) of section 25 and he supported this submission by reference to sub-sections (2), (3) and (4) of section 25.

According to the State, Rule 25-E of the Rules does not carry the matter any further. On the other hand counsel for the appellants, Mr. Ramamurthy, submitted that where there are minerals which were not tapped and not exploited by the ex-intermediary, acquisition of source of income for the intermediary would be acquisition of property and no statute should be so read as would amount to, specially in the background of the constitutional provisions prevailing in 1950 when this Act was passed, as taking away right of property without payment of compensation. It was urged that there was no provision for compensation for this purpose. If it is so read as contended for by the respondent for this valuable property of the appellants, such construction which would amount to expropriatory legislation should be avoided. On the other hand, it was submitted that there was no question of expropriation. The property was not in existence. It was acquisition of a right which might be a source of income and property if tapped but it was not an existing right. The Rules and the sections must be harmoniously construed. Here the legislature was acquiring the estate of ex-intermediary. For all the existing sources of his income and which were being exploited, compensation has been provided for. But for right which might become a source of income which had not been exploited, no compensation has been provided. Where a statute provides for the assumption and enforcement of an existing right liability, it will not be construed as extending that liability or creating a new one unless it does so in clear terms. See in this connection Halsbury's Laws of England, 4th Edition, Vol. 44, page 556, paragraph 904. But here there is no question of interpreting any law which will expose the Act to constitutional infirmity. The right was not existing at the time of vesting--no question therefore arises of depriving ex-intermediary of any right without compensation.

The basic principle of construction of every statute is to find out what is clearly stated and not to speculate upon latent imponderables. The scheme of the Act does not support the appellant. Moreover section 25(1)(a) & (b) deal with independent items and sec. 25(1)(c) is a combination of two. The other sub-sections make it quite clear. Compensation for the acquisition of a source which when exploited might become property or income is not necessary. Ownership is a bundle of rights--for all the elements of existing ingredients of bundle of rights and for the existing bundle of rights compensation has been provided for. The statute is not bad on that ground.

It is not for the court to provide for compensation where legislature has thought it fit not to do so. The view which we are taking in view of the fact that compensation for existing rights has been provided for would not expose this statute to the vice of the unconstitutionality as expropriatory. Had there been such a possibility, other considerations might have been there. The Act has been incorporated in Item I of the 9th Schedule of the Constitution. How the respondent authorities treated this question in the initial stage is irrelevant. It is well settled that a statute must be read as a whole, fairly and reasonably. It must be so read, if possible, and warranted by the context to give effect to the manifest intent of the framer. So read we find that the statute does not provide for any compensation for the minerals not exploited. That does not make the Act unconstitutional. So be it.

In that view of the matter, we are of the opinion that the High Court was right and the appeal must therefore fail and is accordingly dismissed. In the facts and circumstances of the case, however, we make no order as to costs.

P.S.S.
dismissed.
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Appeal