

M/S BHARAT COKING COAL LTD.

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v.

MAHENDRA PAL BHATIA AND ORS.

(Civil Appeal No. 5377 of 2015)

APRIL 01, 2022

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[HEMANT GUPTA AND V. RAMASUBRAMANIAN, JJ.]

Coal Mines (Nationalization) Act, 1973: ss.2(h), 3 – Coal mines – It is not the corporate houses or the business entities owning coal-mines that are transferred to and vested in the Central Government, but it is the coal-mines that are transferred to and vested in the Central Government – If the land fell within the definition of the expression “mine” under the Nationalisation Act, the same stood transferred to and vested in the Central Government under s.3(1) – As could be seen from clause (xi) of s.2(h), even the land and building used solely for the location of the management, sale or liaison offices or for the residence of officers and staff are also included in the definition of the word ‘mine’ – In the instant case, the contention that the property was the private property of one ‘J’ and that his occupation as Manager of a colliery was irrelevant, would fall to the ground – The focus of s.2(h) r/w s.3(1) is on the property and not on who the owner of the property is – Similarly, the objection that the land in question was not used as a colliery is also irrelevant in view of the fact that clause (xi) of s.2(h) uses the words “wherever situated”.

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HELD 1. Section 3(1) of the Nationalisation Act, declares that on the appointed day, which was 01.05.1973, the right, title and interest of the owners in relation to the coal-mines specified in the Schedule shall stand transferred to and shall vest absolutely in the Central government free from all encumbrances. [Para 12][291-E]

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2. What was transferred to and vested in the Central Government, were not corporate houses or business entities owning coal-mines. What was transferred to and vested in the Central Government were the coal-mines. In other words this

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- A Nationalisation Act, was little different from the statutory enactments nationalizing institutions such as banks, insurance companies etc. Therefore, the ownership of the land was immaterial. If the land fell within the definition of the expression “mine” under the Nationalisation Act, the same stood transferred to and vested in the Central Government under Section 3(1).
- B [Para 13][291-G-H; 292-A]
 - 3. The contention that the property was the private property of one ‘J’ and that his occupation as Manager of a colliery was irrelevant, would fall to the ground. The focus of Section 2(h) read with Section 3(1) is on the property and not on who the owner of the property is. Similarly, the objection that the land in question was not used as a colliery is also irrelevant in view of the fact that clause (xi) of Section 2(h) uses the words “wherever situated”. In any case the contention that the property was not part of a colliery, may be factually incorrect. [Paras 15 and 16][293-D-E]
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- E 4. In *Bharat Coking Coal Ltd. vs. Madanlal Agrawal*, this Court clarified that the extended meaning given to the word “mine” was to ensure that the activity of mining coal could be carried on in an uninterrupted fashion. This Court also cautioned “that the Act should not be construed in a way to frustrate the working of the coal mines altogether, thereby stop or bring down production of coal by the nationalization of coal mines”. Therefore, the impugned orders of the High Court run contrary to the statutory prescriptions and hence liable to be set aside.
- F Accordingly, the appeal is allowed, the impugned orders of the High Court are set aside and the writ petition filed by the respondents is dismissed. [Paras 18 and 19][294-D-F]

Bharat Coking Coal Ltd. v. Madanlal Agrawal (1997)
1 SCC 177 : [1996] 8 Suppl. SCR 886- followed.

- G *New Satgram Engineering Works & Another v. Union of India & Ors. (1980) 4 SCC 570 : [1981] 1 SCR 406*
- referred to.

Case Law Reference

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[1981] 1 SCR 406 referred to Para 17

[1996] 8 Suppl. SCR 886 followed Para 18

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5377
of 2015.

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From the Judgment and Order dated 19.02.2015 of the High Court
of Jharkhand at Ranchi in L.P.A. No. 272 of 2013.

Anupam Lal Das, Sr. Adv., Amit Sharma, Dipesh Sinha, Anirudh
Singh, Ms. Pallavi Barua, Krishanu Barva, Advs. for the Appellant.

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Arijit Mazumdar, Shambo Nandy, Abhinav Mukerji, Advs. for the
Respondents.

The Judgment of the Court was delivered by

V. RAMASUBRAMANIAN, J.

1. What was contemplated to be a summary proceeding for the
eviction of unauthorized occupants from public premises under the Public
Premises (Eviction of Unauthorised Occupants) Act, 1971 (*hereinafter
referred to as the “Act”*), having turned out to be a frustrating legal
marathon spread over a period of 38 years, eventually culminating in the
High Court setting aside the orders of eviction passed under the Act, the
Government Company which initiated the proceedings way back in 1984,
has come up with the above appeal.

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2. We have heard Mr. Anupam Lal Das, learned senior counsel
appearing for the appellant and Mr. Shambo Nandy, learned counsel
appearing for the respondents.

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3. The Parliament enacted the Coal Mines (Nationalisation) Act,
1973, (*hereinafter referred to as the “Nationalisation Act”*) providing
for the acquisition and transfer of the right, title and interest of the owners
in respect of coal mines specified in the Schedule. The Schedule to the
Nationalisation Act contained a list of about 711 coal mines located in
different parts of the country. The Schedule also contained the names
and addresses of the owners of each of those mines and the amount
payable to those owners in terms of Section 8 of the Nationalisation Act.
Serial No.92 of the Schedule contained the name of the coal mine “East
Godhur”. The owner of the coal mine was indicated to be “East Godhur

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- A Colliery Company (Private) Limited, P.O. Dhandad" and the amount of compensation payable to the owner was also shown as Rs.4000/.
4. In the year 1984, the Estate Officer, Dhanbad initiated proceedings in Case No.210 of 1984 under the provisions of the Act, against Bhatia brothers and others, on the ground that they are unauthorised occupants of plot nos. 553, 554, 555, 556 and 559 to 564 located in Village Matkuria, District Dhanbad. These proceedings culminated in an order of eviction dated 18.09.1985.
5. But this order was set aside by the District Court, Dhanbad in an appeal under Section 9 of the Act, by an order dated 04.12.1986 and
- C the matter was remanded back to the Estate Officer.
6. The Estate Officer passed a fresh order dated 08.03.1989 dropping the eviction proceedings on the ground that the respondents were authorized occupants. But the said order of the Estate Officer was set aside by the District Court by an order dated 08.08.1990 in an appeal filed by the appellant herein under Section 9 of the Act.
7. But the order of the District Court was set aside by the High Court by an order dated 17.07.1998 in a writ petition filed by the respondents and the matter got back to the District Court by way of remand for a fresh disposal.
- E 8. The District Court passed an order dated 28.09.2000 allowing the appeal of the appellant herein and directing eviction. This order of the District Court was set aside by a learned Single Judge of the High Court by an order dated 20.06.2013 in a writ petition filed by the respondents. The said order of the learned Single Judge was confirmed by the Division Bench in an intra-court appeal by judgment dated 19.02.2015, which is what is impugned before us in the above appeal.
- G 9. The only question which the Estate Officer, the District Court and the High Court dabbled with, was as to whether the property in the occupation of the respondents and their predecessor in interest was covered by the definition of the expression "*mine*" in Section 2(h) of the Nationalisation Act. This question arose in the context of two limited facts namely,
- (i) The property in question was purchased by an individual by name Jamini Mohan Majumdar, under a registered sale deed dated 05.02.1945, long prior to 01.05.1973, the date of coming into force of the
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Nationalisation Act. In this sale deed dated 05.02.1945 Jamini Mohan Majumdar's occupation was described as "Manager", East Godhur Colliery; A

(ii) The said Jamini Mohan Majumdar sold the property in question under four different sale deeds dated 17.01.1984. It was only thereafter that proceedings under the Act, were initiated. B

10. In view of the above two facts, the objection raised by the respondents to the proceedings under the Act was that the property was a private property, not forming part of a "mine". Reliance was also placed upon the Report of the Court Commissioner, according to which there was no mark of any colliery in the disputed land and that there was a two storey building on the disputed plot, with Godhur Colliery being located 3 Kilometers away. C

11. In other words the objection of the respondents was two-fold namely, (i) that the property did not belong to the company which owned the East Godhur Coal Mine; and (ii) that the land in question was not used as a coal-mine. D

12. But, unfortunately for the respondents, both the objections cannot stand in the light of the statutory prescriptions. Section 3(1) of the Nationalisation Act, declares that on the appointed day, which was 01.05.1973, the right, title and interest of the owners in relation to the coal-mines specified in the Schedule shall stand transferred to and shall vest absolutely in the Central government free from all encumbrances. Section 3(1) of the Nationalisation Act, 1973 reads as follows:- E

"3. Acquisition of rights of owners in respect of coal mines.-

(1) On the appointed day, the right, title and interest of the owners in relation to the coal mines specified in the Schedule shall stand transferred to, and shall vest absolutely in, the Central Government free from all incumbrances." F

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13. As could be seen from the vesting provision, what was transferred to and vested in the Central Government, were not corporate houses or business entities owning coal-mines. What was transferred to and vested in the Central Government were the coal-mines. In other words this Nationalisation Act, was little different from the statutory enactments nationalizing institutions such as banks, insurance companies G

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A etc. Therefore, the ownership of the land was immaterial. If the land fell within the definition of the expression “*mine*” under the Nationalisation Act, the same stood transferred to and vested in the Central Government under Section 3(1).

B 14. The definition of the expression “*mine*” under Section 2(h) of the Nationalisation Act, is very wide. It reads as follows:-

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

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C (h) “*mine*” means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—

(i) all borings and bore holes;

(ii) all shafts, whether in the course of being sunk or not;

D (iii) all levels and inclined planes in the course of being driven;

(iv) all open cast workings;

(v) all conveyors or aerial ropeways provided for bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

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

F (vii) all workshops (including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshops stand) in, or adjacent to, a mine and used substantially for the purposes of the mine or a number of mines under the same management;

G (viii) all coal belonging to the owner of the mine, whether in stock or in transit, and all coal under production in a mine;

(ix) all power stations in a mine or operated primarily for supplying electricity for the purpose of working the mine or a number of mines under the same management;

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(x) all lands, buildings and equipments belonging to the owner of the mine, and in, adjacent to or situated on the surface of, the mine where the washing of coal obtained from the mine or manufacture, therefrom, of coke is carried on; A

(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; B

(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.” C

15. As could be seen from clause (xi) of Section 2(h), even the lands and buildings used solely for the location of the management, sale or liaison offices or for the residence of officers and staff were also included in the definition of the word “*mine*”. Therefore, the contention that the property was the private property of Jamini Mohan Majumdar, and that his occupation as Manager of a colliery was irrelevant, would fall to the ground. The focus of Section 2(h) read with Section 3(1) is on the property and not on who the owner of the property is. D

16. Similarly, the objection that the land in question was not used as a colliery is also irrelevant in view of the fact that clause (xi) of Section 2(h) uses the words “*wherever situated*”. In any case the contention that the property was not part of a colliery, may be factually incorrect. The sale deed dated 05.02.1945 by which Jamini Mohan Majumdar purchased the property in question contains a very specific recital which reads as follows: E

“...This deed witnesseth that in the schedule land in view of the ongoing colliery workings the fertility of the schedule land has been reduced for that reason and for monetary reason being in special need and having no alternative when I offered for absolute sale of the land in schedule as receipt of consideration price of Rs.575/- on this day by way of absolute sale this sale deed is being executed in your favour. **You are at liberty to carry on all nature of colliery work both underground and surface and enjoy the name TO HAVE AND HOLD the same to and upto the purchaser absolutely and forever in any manner whatsoever without any hindrance or interruption from us together with all** F

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- A right, benefit, easement, privileges, liberties which he hereto begins enjoyed..."

Therefore, the respondents cannot now rely upon the Report of a Court Commissioner who carried out inspection probably after two/three decades of nationalization.

- B 17. The learned counsel for the respondents placed reliance upon the judgment of this Court in *New Satgram Engineering Works & Another vs. Union of India & Ors.*¹, in support of his contention that the question whether something is a "mine" or not is essentially a question of fact and that when the facts are seriously controverted it was appropriate for the High Court to relegate the parties to the civil court.

C 18. Though paragraph 16 of the decision in *New Satgram* (supra) appears to support the contention of the respondents by highlighting the difference between the language employed in clauses (vii) and clause (xi) of Section 2(h), a subsequent decision of this Court (also of a 3

- D member bench) in *Bharat Coking Coal Ltd. Vs. Madanlal Agrawal*², steers clear any air of suspicion. In this case, this Court clarified that the extended meaning given to the word "mine" was to ensure that the activity of mining coal could be carried on in an uninterrupted fashion. This Court also cautioned "*that the Act should not be construed in a way to frustrate the working of the coal mines altogether, thereby stop or bring down production of coal by the nationalization of coal mines*".

E 19. Therefore, the impugned orders of the High Court run contrary to the statutory prescriptions and hence liable to be set aside. Accordingly,

- F the appeal is allowed, the impugned orders of the High Court are set aside and the writ petition filed by the respondents is dismissed. The order of eviction shall stand confirmed. There will be no order as to costs.

Devika Gujral

Appeal allowed.

(Assisted by : Shubhanshu Das, LCRA)

¹ (1980) 4 SCC 570

² (1997) 1 SCC 177