

MAHANADI COALFIELDS LTD.

A

v.

STATE OF ODISHA & ORS.

(Civil Appeal No. 220 of 2023)

JANUARY 20, 2023

B

[M. R. SHAH AND C.T. RAVIKUMAR, JJ.]

C

Coal Bearing Areas (Acquisition and Development) Act, 1957– ss.11(2),2(d)– ‘Person interested’ –Lands in question owned by respondent-State was acquired by the Central Govt. –In exercise of powers u/s.11(1), the Central Govt. directed that the lands and rights so vested shall instead of continuing to vest in the Central Govt., vest in the appellant-Govt. Company subject to the terms and conditions as mentioned– Demand notice issued by State for premium and compensation – Challenged by appellant– Demand confirmed by High Court– On appeal, held: As per s.11(2), where the rights under any mining lease acquired under this Act vest in a Govt. company, the Govt. company shall, on and from the date of such vesting, be deemed to have become lessee of the State Govt. as if a mining lease under the Mineral Concession Rules had been granted by the State Govt. to the Govt. company–It shall be liable to pay compensation/rental, etc., to the State Govt. being ‘person interested’– Person interested’ is defined u/s.2(d) – State Govt. being the original owner can be said to be deemed lessor and ‘person interested’ in getting the compensation – Therefore, the High Court is right in observing that being ‘person interested’, the State Govt. is entitled to the compensation/rental, etc.– Demand(s) upheld – Impugned judgment not interfered with.

D

E

F

Coal Bearing Areas (Acquisition and Development) Act, 1957 – ss.11, 18(a) – Plea of the appellant that the Govt. company in whose favour the order is passed u/s.11,except the amount of royalty u/s.18(a) it is not liable to pay any amount – Held : The argument has no substance –Compensation/rental payable with respect to the lands by the lessee/deemed lessee is altogether different than the royalty – Royalty is for extraction of minerals in the lands in question – Over and above the amount of royalty, the coal company/ Government company shall be liable to pay the compensation and surface land rent, etc. –Amount of royalty cannot be mixed with the compensation/loss caused to the State Government due to loss of land and surface land rent as the State Government is entitled for

G

H

- A *the adequate compensation – High Court justified in confirming the respective demand(s).*

CIVIL APPELLATE JURISDICTION : Civil Appeal No.220 of 2023.

From the Judgment and Order dated 02.04.2019 of the High Court of Orissa at Cuttack in WP (C) No.2477 of 2009.

- B K. M. Nataraj, ASG, Soumyajit Pani, Aishwary Bajpai, Siddharth Jain, Advs. for the Appellant.

Umakant Mishra, Niranjan Sahu, Apoorva Sharma, Debabrata Dash, Sibo Sankar Mishra, Advs. for the Respondents.

- C The Judgment of the Court was delivered by
M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 02.04.2019, passed by the High Court of Orissa at Cuttack in W.P. (C) No. 2477/2009, by which, the High Court has dismissed the said writ petition preferred by the appellant herein and

- D has confirmed the demand made by the District Magistrate & Collector, Sambalpur, of Rs. 70 lakhs towards the premium of the government land, the appellant – Mahanadi Coalfields Ltd. has preferred the present appeal.

2. The facts leading to the present appeal in a nutshell are as under: -

- E 2.1 That the lands in question owned by the State Government of Odisha came to be acquired by the Government of India under Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (hereinafter referred to as the Act, 1957). That thereafter, vide order dated 04.09.1981 and in exercise of powers conferred by Sub-section

- F (1) of Section 11 of the Act, 1957 with respect to some lands acquired, the Central Government directed that the rights in or over the lands vested absolutely in the Central Government, shall, instead of continuing to vest in the Central Government, under Sub-section (1) of Section 10, vest in the Western Coalfields Limited. That vide order dated 15.12.1988, with respect to some other lands acquired by the Central Government

- G and in exercise of powers conferred by the Sub-section (1) of Section 11 of the Act, 1957, the Central Government directed that the said lands and rights so vested shall, with effect from 16.05.1987 instead of continuing to so vest in the Central Government, shall vest in the Government Company, subject to the terms and conditions mentioned in the said order. That is how, the appellant acquired the lands and rights

- H over the lands in question. That respondent issued the demand notice

dated 15.03.1984 for a sum of Rs. 70 lakhs towards premium for Government land and Rs. 40 lakhs towards compensation. That various similar demand notices were issued for area of Non-Forest Government land and Revenue Forest land. The demands were challenged by the appellant by way of writ petition before the High Court. Before the High Court, Section 18(a) of the Act, 1957 was pressed into service by the appellant herein and it was submitted that in view of the notification as the lands and rights on the lands absolutely vested in the Central Government thereafter, the State Government is not entitled to any compensation with respect to the lands so acquired/vested except the royalty leivable under Section 18(a) of the Act, 1957. By the impugned judgment and order the High Court has interpreted Section 2(d) of the Act, 1957 and has observed that the State Government can be said to be person interested in land and therefore, entitled to the compensation over and above in lieu of losing the rights over the land. That thereafter, by the impugned judgment and order the High Court has dismissed the writ petition and has confirmed the demand(s).

2.2 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court the appellant – original writ petitioner – Mahanadi Coalfields Limited has preferred the present appeal.

3. Shri K.M. Nataraj, learned ASG, appearing on behalf of the appellant has taken us to the entire scheme of the Act, 1957 right from Section 4 to Section 11. It is submitted that as per Section 4 of the Act, 1957, whenever it appears to the Central Government that coal is likely to be obtained from land in any locality, it may, by notification in the Official Gazette give notice of its intention to prospect for coal therein. It is submitted that thereafter after following the due procedure as required the Central Government being satisfied, after considering the report, if any, made under Section 8 that any land or any right in or over such land should be acquired, a declaration shall be made by it to that effect. It is submitted that thereafter once the declaration under Section 9 of the Act is issued on the publication in Official Gazette of the declaration, the land or the rights in or over the land, as the case may be, shall vest absolutely in the Central Government free from all encumbrances as per Section 10 of the Act. It is further submitted that as per Section 11 of the Act, notwithstanding anything contained in Section 10, the Central Government may, if it is satisfied that a Government company is willing to comply or has complied with such terms and conditions as the Central Government may think fit to impose, direct, by order in writing, that the land or the rights in or over the land, as the case may be, shall, instead of vesting in the Central Government under Section

A

B

C

D

E

F

G

H

- A 10 or continuing to so vest, vest in the Government company either on the date of publication of the declaration or on such other date as may be specified in the direction. It is submitted that therefore, once the land or the rights vested in the Central Government and/or in a Government company (under Section 11), the same is vested absolutely free from all encumbrances and the State Government is not entitled to recover any amount of premium of the land or the compensation or any rental except the royalty leviable under Section 18(a) of the Act, 1957. It is submitted that therefore, the demands made by the State Government upheld by the High Court towards premium/rental, etc., is absolutely illegal.
- B 4. Opposing the present appeal Shri Umakant Mishra, learned counsel appearing on behalf of the State hasvehemently submitted that the appellant has been vested with the rights in the land in question pursuant to the order of the Central Government issued under Section 11 of the Act, 1957. It is submitted that it cannot be disputed that the State Government was the owner of the lands in question. It is submitted that therefore, the State Government is entitled to the premium/compensation/rentals with respect to the lands in question of the land vested or rights so vested in the Government company.

- C 4.1 It is submitted that as such Section 18(a) of the Act, 1957 which has been inserted in the year 1971 is distinct from and over and above the right of the State Government to recover the compensation/rental, etc. It is submitted that the royalty is for the extraction of the minerals/coal from the lands in question. He has taken us to the Statements of Objects and Reasons for inserting Section 18(a) in the Act, 1957.
- E 4.2 Making the above submissions, it is prayed to dismiss the present appeal by submitting that the High Court has rightly interpreted Section 2(d) of the Act, 1957 and has rightly observed that the State being person interested in the land shall be entitled to the compensation/rental over and above the amount of royalty leviable/payable under Section 18(a) of the Act, 1957.

- F 5. We have heard learned ASG on behalf of the appellant and learned counsel appearing on behalf of the State. It cannot be disputed that as per Sections 4 to 10, on the declaration being issued under Section 9 of the acquisition, the land/rights in or over the land, as the case may be, shall be vested absolutely in the Central Government free from all encumbrances. However, as per Section 11 of the Act, notwithstanding anything contained in Section 10, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied with such terms and conditions as the Central Government may think fit to impose, direct, by order in writing, that the land or the rights in or over

the land, as the case may be, shall, instead of vesting in the Central Government under Section 10 or continuing to so vest, vest in the Government company either on the date of publication of the declaration or on such other date as may be specified in the direction. As per Sub-section (2) of Section 11, where the rights under any mining lease acquired under this Act vest in a Government company under Sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become lessee of the State Government as if a mining lease under the Mineral Concession Rules had been granted by the State Government to the Government company, the period thereof being the entire period for which such a lease could have been granted by the State Government under those rules; and all the rights and liabilities of the Central Government in relation to the lease or the land covered by it shall, on and from the date of such vesting, be deemed to have become the rights and liabilities of the Government company. Section 13 provides for compensation for prospecting licences ceasing to have effect, rights under mining leases being acquired. Thus, as per Section 11, the Government company in whose favour the order has been issued by the Central Government shall be deemed to be the lessee and shall be liable to pay the compensation/rental, etc., to the State Government being 'person interested'. 'Person interested' is defined under Section 2(d) of the Act. The State Government being the original owner can be said to be deemed lessor and 'person interested.' As per Sub-section (2) of Section 11 of the Act, the Government company in whose favour the order is issued under Section 11 can be said to be the deemed lessee of the State Government. Therefore, the State Government can be said to be the 'person interested' in getting the compensation. Therefore, the High Court is absolutely right in observing and taking the view that being 'person interested' the State Government is entitled to the compensation/rental, etc.

5.1 Now so far as the submission made on behalf of the appellant that the Government company in whose favour the order is passed under Section 11 after which the land is vested absolutely with the Central Government except the amount of royalty as per Section 18(a) of the Act, the Government company is not liable to pay any amount is concerned, the aforesaid has no substance. The compensation/rental payable with respect to the lands by the lessee/deemed lessee is altogether different than the royalty. Royalty is for extraction of minerals in the lands in question. The aforesaid would be clear from the Statements of Objects and Reasons of the Act 54 of 1971 by which Section 18(a) of the Act was introduced. The same reads as under:-

A

B

C

D

E

F

G

H

- A "Act 54 of 1971- The Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) hereinafter referred to as the Coal Bearing Areas Act) provides inter alia for the acquisition by the Central Government of virgin lands, including underground minerals, or rights in or over such lands. Under the Explanation to clause (a) of sub-section (5) of section 13, which provides that the value of any minerals lying in the land will not be taken into consideration in determining the market value of any land no compensation is payable to the State Governments in respect of the underground minerals which also vest in the Central Government when the land is acquired by the Central Government. The State Government have been representing from time to time that this results in their being deprived of large sums by way of revenue. The Central Government has considered the representations of the State Government and has decided that the State Governments should be paid purely on an ex gratia basis such sums as they would have been entitled to receive by way of royalty, had mining leases been granted in respect of the areas acquired. It is now proposed to amend the Coal Bearing Areas Act to make such payments obligatory.
- B 6. In that view of the matter over and above the amount of royalty the coal company/Government company shall be liable to pay the compensation and surface land rent, etc., Therefore, the High Court is absolutely justified in confirming the respective demand(s). The amount of royalty cannot be mixed with the compensation/loss caused to the State Government due to loss of land and surface land rent as the State Government is entitled for the adequate compensation. If the submission made on behalf of the appellant is accepted in that case nothing would be paid towards the lands except the amount of royalty under Section 18(a) of the Act, which is for extraction of minerals.
- C
- D
- E
- F
- G 7. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court is not required to be interfered with. However, if the appellant is disputing the quantum and/or calculation of demand(s), it would be open for them to approach the appropriate authority, however, the demand(s) as such is/are upheld. With this, present appeal stands dismissed. No costs.