

Central Coal Fields Ltd. vs State Of Bihar And Ors. on 19 October, 1984

Equivalent citations: AIR1985SC107, 1984(2)SCALE595, 1984(SUPP)SCC720, AIR 1985 SUPREME COURT 107, (1985) PAT LJR 3 1984 SCC (SUPP) 720, 1984 SCC (SUPP) 720

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Bench: D.A. Desai, Ranganath Misra

ORDER

Ranganath Misra, J.

1. This is an application under Article 136 of the Constitution and is directed against the decision of a Division Bench of the Patna High Court dismissing a writ petition made to that Court under Article 226. Petitioner is a Government company in which under Section 5 of the Coal Mines (Nationalisation Act), 1973, Act 26 of 1973, (Nationalisation Act' for short), the right, title and interest of the owner of the Jagaldaga Colliery came to vest following nationalisation. The District Mining Officer, Palamu, raised a demand of dead rent as payable under the Mineral Concession Rules of 1960, amounting to Rs. 1,41,140.87 paise for the period May 1, 1973 to September 30, 1974. The certificate Officer constituted under the Bihar and Orissa Public Demands Recovery Act, IV of 1914, signed a certificate on the basis of the requisition of the Mining Officer and called upon the petitioner to satisfy the demand. The claim was resisted by the petitioner, on several grounds, inter alia, that under the law applicable to payment of dead rent the petitioner had no liability for the first year from May 1, 1973, when the ownership of the mine came to vest in the Central Government and came to the petitioner company and at concessional rate thereafter. The objection was overruled by the Certificate Officer and the demand was held payable. The order of the Certificate Officer was assailed before the High Court in the manner indicated. The Division Bench heard both the parties and dismissed the writ petition holding that the objection was without any foundation and the claim was payable.

2. In our opinion there is absolutely no merit in the stand taken by the petitioner and the special leave petition has to be dismissed. Ordinarily such dismissal did not require reasons to be assigned. Since a Government company has chosen to carry the matter up to this Court and Mr. L.N. Sinha, Senior Counsel, has not only addressed oral arguments in support of the application but has followed it up by copious written submissions, we think it proper to indicate the reasons in brief for dismissing the application.

3. One S.K. Datta was the owner of the coal mine in question. Under the Coal Mines (Taking over of Management) Ordinance; the management was taken over with effect from May 1, 1973. Subsequently the Nationalisation Act came into force with retrospective effect from May 1, 1973. While under the takeover legislation only the management had passed, under the Nationalisation Act the right, title and interest of the owner in relation to the coal mine stood transferred to, and vested absolutely, in the Central Government free from all encumbrances. Section 4(1) of the Nationalisation Act provided :

Where the rights of an owner under any mining lease granted... in relation to a coal mine, by a State Government... vest in the Central Government under Section 3, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of the State Government,... in relation to such coal mine as if a mining lease in relation to such coal mine has been granted to the Central Government and the period of such lease shall be the entire period for which such lease could have been granted by the State Government... and thereupon all the rights under such mining lease including surface, underground and other rights granted to the lessee shall be deemed to have been transferred to, and vested in, the Central Government.

4. In view of the stand taken by the petitioner, the point to be resolved is as to whether the Central Government or, for the matter of that, the petitioner shall be deemed to be a new lessee or this would be a case of statutory substitution of the Central Government in place of the existing lessee who was the owner of the mine under the Mineral Concession Rules. Section 3 of the Nationalisation Act categorically provides that the right, title and interest of the owner of the mine under the mining lease shall stand transferred to the Central Government. Section 4 of the same Act makes it abundantly clear that the Central Government gets substituted in place of the owner under the mining lease and, therefore, steps into the shoes of the hitherto owner. This is clearly a case of substitution by operation of law and there is no question of grant of any lease. In fact, the scheme under the Nationalisation Act does not contemplate grant of a lease. On the other hand, from the appointed day, i.e. May 1, 1973, the process of statutory transfer becomes operative and under Section 4(2) provision has been made for renewal of the taken over lease as and when the existing lease expires. The scheme, therefore, does not provide for termination of the existing lease but allows such lease to continue with the ownership having been nationalised. Grant of a new lease is repugnant to the scheme under the statute. Parliament could have brought about a statutory termination of lease bylaw but since the Nationalisation Act does not make any provision to that effect, it is not open to the petitioner to raise a claim of being a fresh grantee and, therefore, ask for exemption for one year on the plea that for a new lessee there is no liability for dead rent for the first year. We have not examined the correctness of the stand that there is exemption for one year as in our opinion that question does not at all arise for decision in the present case.

5. The petitioner had placed reliance on the ratio in Bihar Mines Ltd. v. Union of India , and Mr. Sinha emphatically relied on the same before us again. That decision has nothing to do with the point in issue and if it is available to be put to any use, the ratio is directly against the stand taken by the petitioner and reiterated by Mr. Sinha. I We are of the definite view that the demand raised

by the Mining Officer was a valid one and the objection of the petitioner is wholly frivolous. Both the Certificate Officer as also the High Court have rightly overruled the objection and found the liability of the petitioner. We are surprised that a Government company has thought of disputing the statutory liability and attempted to protract the litigation by carrying the matter from Court to Court. For these reasons we dismiss, the application but as the dismissal is before notice to the other side, we make no order for costs.