

Supreme Court of India

Bharat Coking Coal Limited vs Madanlal Agrawal on 20 November, 1996

Author: Sen

Bench: Subhas C. Sen, Sujata V. Manohar

PETITIONER:

BHARAT COKING COAL LIMITED

Vs.

RESPONDENT:

MADANLAL AGRAWAL

DATE OF JUDGMENT: 20/11/1996

BENCH:

SUBHAS C. SEN, SUJATA V. MANOHAR

ACT:

HEADNOTE:

JUDGMENT:

(With C.A. Nos.1727/1990, 1728/1990, 1729/1990, 1730/1990, 1731/1990 and 4673/1994) J U D G M E N T SEN, J.

This appeal arises out of a suit instituted by one Madanlal Agrawal for eviction of Bharat Coking Coal Limited from land and buildings allegedly owned by him adjacent to the coal mine known as Victory Colliery, which had vested in the Central Government by virtue of the Coal Mines (Nationalisation) Act, 1973. Victory Colliery was owned by United mining Company private Limited. The case of the appellant is that the company was practically a one man company. If the corporate veil is lifted, it will be found that Madanlal Agrawal was de facto owner of the company. Madanla Agrawal's case is that he had in his individual capacity purchased certain properties together with structures thereon by registered deeds of sale dated 7.7.1949 and 24.3.1950 and built further structures and remodelled them. The United Mining Company Private Limited took these structures on monthly rent. These structures were utilised as office premises of Victory Colliery as also staff quarters. Eviction was sought for non-payment of monthly rent for several years.

Bharat Coking Coal Limited in its written statement aileged that the said properties were bought with the moneys belonging to the colliery and as such the land and the structures really belonged to the company. The alleged payment of rent by Victory Colliery to Madanlal Agrawal was only a paper

transaction and for tax benefit. All the purchases were made by United Mining Company and sources of investment came from the funds of the said company.

It may be mentioned that even before the Coal Mines (Nationalisation) Act came into force on 1.5.1973, the management of Victory Colliery along with the disputed properties were taken over by the Central Government on 1.1.1973. No objection was taken thereto by the plaintiff. It was only on 1.1.1976 the plaintiff issued a legal notice to the appellant to vacate the suit premises and to pay arrears of rent from January, 1973 till the filing of the suit. Title Suit (T.S. Non.7/6 of 1976) for eviction was filed on 2.2.1976. On 21.5.1979, the Ist Additional Subordinate Judge dismissed the suit with costs. The respondent preferred an appeal against the judgment and decree passed by the Trial Court. It was allowed by the Division Bench of the Patna High Court. The High Court was of the view that right, title and interest in the suit premises had not vested in the Central Government. Bharat Coking Coal Limited in respect of the suit premises was a tenant under Madanlal Agrawal. Since it had defaulted in payment of rent for the period from January, 1973, it was liable to be evicted from the suit premises. Therefore the respondent's suit was decreed. A further direction was given to pay the arrears of rent to the tune of Rs. 66,000/- and mesne profits.

The Trial Court on examination of the facts came to the conclusion that there was no relationship of landlord and tenant between the plaintiff and the defendant. It found that Bharat Coking Coal Limited was maintaining the said premises since vesting of Victory Colliery in the Central Government. The cost of repairs, electricity and water charges in respect of the suit premises were to be borne by the United Mining Company on behalf of the colliery before its nationalisation. Madanlal Agrawal, the plaintiff stated in cross-examination that he was the director of the United Mining Company. The other director was his own brother. He also stated that he had got the account books to prove that he purchased the suit premises out of personal funds but he did not file the same. He also stated that the Company used to pay rent of the suit property but he did not produce the rent receipts. He also admitted that he could not say when he constructed the house and what was the total cost. The expenses of electricity and water connections in the suit properties were paid by the United Mining Company. He admitted in the cross-examination that the employees of United Mining Company were in occupation of the suit premises. The office store, compressor room, garage etc. of the Victory Colliery were in the suit properties. The suit premises were used by United Mining Company exclusively for the purpose of Victory Colliery. The Trial judge observed that "it appears that plaintiff." The Trial judge came to the conclusion that in view of these facts and also in view of the provisions of the Coal Mines (Nationalisation) Act, the suit was not maintainable and the plaintiff was not entitled to any of his claims.

In appeal, it was held by a Division Bench of the Patna High Court that the plaintiff/appellant was the owner of the suit premises of which Bharat Coking Coal Limited was the tenant and as it had defaulted in payment of rent from January, 1973 onwards, it was liable to be evicted. The High Court came to the conclusion on the strength of a share certificate that Madanlal Agrawal became a shareholder of United Mining Company for the first time in 1951 but had purchased the suit properties in the year 1949.

That being the position, it was held that the suit premises had not vested in the Central Government by virtue of the provisions of the Coal Mines (Nationalisation) Act. Therefore, an eviction order had to be passed for non- payment of rent against Bharat Coking Coal Limited.

Before this Court, the argument on behalf of Bharat Coking Coal Limited, the appellant was confined to the scope of Coal Mines (Nationalisation) Act, 1973. The validity of the finding of the High Court that United Mining Company was a tenant of Madanlal Agrawal has not been challenged. Therefore, the only question that falls for determination before us is whether the right, title and interest of Madanlal Agrawal in the suit premises have vested in the Central Government by virtue of Section 3 of the Coal Mines (Nationalisation) Act, 1973.

Even before the Nationalisation Act was passed, various legislations were passed in regard to coal mines for the purpose of preservation of coal and safety of miners working in the Coal mine.

In 1952, the Coal Mines (Conservation and Safety) Act, 1952 was passed. The purpose of the Act was declared to be "it is expedient in the public interest that the Central Government should take under its control the regulation." of coal mines to the extent hereinafter provided." Under this Act, the private ownership of coal mines was not disturbed, but mining operations were strictly regulated. A Board was set up for the purpose of maintenance of safety in coal mines and for conservation of coal. "Mine" was not separately defined in the Act but by Section 3(1) "Agent", "Mine" and "Owner" were given the same meaning as in Section 3 of the Indian Mines Act, 1923.

The Mines Act, 1952 came into force on 1st July, 1952. It dealt with mines generally. "Mine" was defined by Section 2(j) as under:

"2(j) '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, bore-holes and oil well,
- (ii) all shafts in or adjacent to and belonging to a mine, whether in the course of being sunk or not,
- (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 the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom,
- (vi) all adits, levels, planes, machinery, works, railways, tramways, and sidings in or adjacent to and belonging to a mine;
- (vii) all workshops, situated within the precincts of a mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same

management,

(viii) all power stations for supplying electricity solely for the the purpose of working the mine or number of mines under the same management,

(xi) any premises for time being used for depositing refuse from a mine, or in which any operation in connection with such refuse is being carried on, being premises exclusively occupied by the owner of the mine,

(x) unless exempted by the Central Government by notification in the official gazette, any premises or part thereof, in or adjacent to and belonging to a mine, on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;

"Owner" was defined by Section 2(1) as under:

"2(1). 'owner', when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver and in the case of a mine, owned by a company, the business whereof of being carried on by a managing agent, such managing agent; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act, in like manner as if he were an owner from any liability;

The limited nature of the definition of 'mine' in the Mines Act was explained in the case of *Serajuddin & co. v. Workmen* (A.I.R. 1966 SC 921), where it was pointed out by this Court that 'mine' in Section 2(j) of the Mines Act clearly excluded an office of a mine which was separately defined by Section 2(k) as meaning an office at the surface of the mine concerned. The office of the mine, even though situated on the surface of the mine, did not fall within the definition of 'mine'.

A much more extended meaning of 'mine' was given in the Coal Mine (Taking Over of Management) Act, 1973 by which the management of coal mines in India was vested in the Central Government on and from the appointed date, i.e., 30th January, 1973. The coal mines specified in the Schedule to the Act were deemed to be mines of which the management vested in the Central Government by virtue of the provisions of Section 3(2). It was further provided that, if after the appointed day, the existence of any other coal mine came to the knowledge of the Central Government, whether after an investigation or in pursuance of an intimation given to it under sub-section (5) or otherwise, the Central Government was empowered to issue an order making a declaration about the existence of such mine on and from the date of such declaration. The management of such mines was also deemed to have vested in the Central Government and such coal mines were deemed to have been included in the Schedule. Sub-sections (3), (4), and (6) of Section 3 provided as under:

"(3) If any error or omission is notified in the Schedule in relation to the name or address of the owner of a coal mine, the owner of such mine shall, within thirty days from the date on which this Act receives the assent of the president, bring such error or omission to the notice of the Central Government, (4) If, after the appointed day, the Central Government is satisfied, whether from any information received by it or otherwise, that there has been any error, omission or misdescription in relation to the particulars of a coal mine included, or deemed to be included, in the Schedule or the name and address of the owner of any such coal mine, it may, by notified order, correct such error, omission or misdescription, and on the issue of such notified order the relevant entries in the Schedule shall stand corrected accordingly:

Provided that no such correction in relation to ownership of a coal mine shall be made where such ownership is in dispute.

(5) Every person in charge, immediately before that date on which this Act receives the assent of the president, of the management of any coal mine, being a coal mine not included or deemed to be included on the said date in the Schedule, shall within thirty days from the said date, intimate the Central Government the name and location of such mine and the name and address of the owner thereof. (6) Where is a dispute with regard to the declaration made by the Coal Board under the Coking Coal Mines (Emergency Provisions) Act, 1971, to the effect that a coal mine contains coking coal, the management of such coal mine shall, notwithstanding anything contained in the said Act vest in the Central Government under this Act and nothing contained in the first mentioned Act shall apply, or be deemed ever to have applied to the said coal mine"

For the purpose of this case, it is important to note that the Schedule appended to the Act was not treated as final and conclusive. Every person in charge of management of coal mine which was not included in the schedule had a duty to intimate to the Central Government, the name and location of such mine and the name and address of the owner thereof. The words specifically not defined in Section 2 were assigned the meanings given to them in Section 3 of the Mines Act, 1952 'Mine', However, was given a very wide meaning under Section 2(g).

The extended definition of 'mine' specifically included all lands, buildings and equipments belonging to the owner of the mine and adjacent to or situated on the surface of the mine where the washing of coal or manufacture of coke was carried on. It also included all lands and buildings other than those referred to above wherever situated and were solely used for location of management as well as of liaison office or the residence of officers and staff of the mine. In other words, buildings used for the residence of the officers and staff etc. had to be treated as 'mine' in spite of the fact that such lands and buildings might not have belonged to the owner of the 'mine' in ordinary sense. It will also appear from the definition of 'mine' that the phrase "belonging to the owner of the mine" was only to be found in sub-clause (x) and sub-clause (xii) of Section 2(g). The legislative intent obviously was to bring lands, buildings and equipments which did not belong to the owners but were used in the running of the coal mine within the ambit of the word 'mine'. The intention appears to

be that the Central Government after taking over of the mine must be in a position to run the mine as it was being run previously with all the plants, equipments, machineries, lands and buildings. Even if some of the properties mentioned in the definition did not belong to the owner, those will be available to the Central Government for running the mine. As this provision might lead to a conflict with other laws, it was expressly provided by Section 12 that the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law. In the Schedule annexed to the Act, names and addresses of the mines, management of which was taken over as well as the names of the owners of the mines were given, "Victory. P.O. Dhansar" was mentioned at Serial No.68 and United Mining Company Limited has been shown as the owner of the mine. By virtue of Section 3 read with the extended definition of mine given in the Act. not only the colliery, but the buildings which are being utilised for location of the management and the office of the mine as also for residence of the officers and staff of the mine were brought under the management of the Central Government. If the office building belonged to a person other than the Colliery Company which owned the mine, then it was his duty to draw the attention of the Central Government to the fact that these buildings even though included in the definition of 'mine', actually did not belong to United Mining Company Limited which was described generally as the owner might have been corrected. But even if such an error took place which required correction, the owner of the lands and buildings falling within sub-clause (xi) of clause (g) of Section 2 could not get back the management or control over these lands and buildings. It is of significance to note that Madanlal Agrawal who is a Director of United Mining Company Limited did not raise any objection to the description of United Mining Company Limited as the owner of the coal mine at any point of time and did not seek for any correction. It is not his case that he was unaware of the wide definition of 'mine' given in this Act.

The Coal Mines (Taking over of Management) Act, 1973 was followed by the Coal Mines (Nationalisation) Act, 1973. The extended definition of 'mine' that was given under the Coal Mines (Taking Over of Management) Act was retained in Section 2(h) of the Nationalisation Act with some modification.

The object of the Nationalisation Act was stated to be- "An Act to provide for the acquisition and transfer of the right, title and interest of the owner in respect of the coal mines specified in the schedule with a view to reorganising and re-

constructing such coal mines so as to ensure the rational, co-

ordinated and scientific development and utilisation of coal resources consistent with the growing requirements of the country, in order that the ownership and control of such resources are vested in the State and thereby so distributed as best to subserve the common good and for matters connected therewith or incidental thereto."

A declaration was made in the Act in Section 1A which is as under:-

"1A-Declaration as to expediency of Union control.-(1) It is hereby declared that it is expedient in the public interest that the Union should take under its control the

regulation and development of coal mines to the extent hereinafter provided in sub-sections (3) and (4) of section 3 and sub-section (2) of section 30."

"Mine" was defined by Section 2(h) of Act as under:

"2(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;

(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;

(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;

(vii) all workshops (including buildings, machinery, instruments, stores, equipments of 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;

(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 number of mines under the same management;

(x) all lands, buildings and equipments, belonging to the owners 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

(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;

(xii) all other fixed assets, movable and immovable, belonging to the owner of a mine, wherever situate and current assets, belonging to a mine whether within its premises or outside.

Explanation.-The expression "current assets" does not include,-

(a) dues representing the sale of coal and coal products effected at any time before the appointed day and outstanding immediately before the said day;

(b) dues from the Coal Board, established under section 4 of the Coal Mines (Conservation, Safety and Development) Act, with respect to any period before the appointed day;

(C) dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coal mines;

(d) security deposits made by the owners with the Coal Controller appointed by the Central Government or with the Railways for the fulfilment of contracts or with a State Electricity Board for the payment of bills;

(e) earnest money deposited by the owners with the Railways for obtaining contracts;"

Sub-section (n) of Section 2 laid down that words and expressions used but not defined in the Act will have the meanings assigned to them in the Coal Mines (Conservation and Safety) Act, 1952. Sub-section (o) of Section 2 provided that words and expressions used in the Nationalisation Act which have not been defined in the Coal Mines (Conservation and Development) Act, 1974, but defined in the Mines Act, 1952, will have the meanings assigned to them in the Mines Act.

By virtue of Section 3, the right, title and interest of owners in relation to the coal mines specified in the Schedule stood transferred to and vested absolutely in the Central Government free from all encumbrances from the appointed day, 1st May, 1973. The idea behind the Nationalisation Act appears to be that the Government wanted to take over and run the coal mines so as to ensure rational, co-ordinated and scientific development and utilisation of coal resources. The object of the Act was to subserve the common good and for matters connected therewith or incidental thereto. The Act should not be construct in a way to frustrate the working of the coal mines altogether and thereby stop or bring down production of coal by the nationalisation of coal mines. The extended meaning given to 'mine' was to ensure that the activity of mining of coal could be carried on in an uninterrupted fashion. Not only the lands, buildings and equipments belonging to the owners of the mine but other lands and buildings which were solely used for the purposes of office or residence of the officers and staff of the mine also vested in the Central Government. The words of sub-clause (xi) are very clear and there is no ambiguity in them.

Mr. Sorabjee appearing on behalf of Madanlal Agrawal has contended that what has been taken over under Section 3 by the Central Government is the "right, title and interest of the owners in relation to the coal mines specified in the Schedule". Serial No. 204 in the Schedule mentions "Victory" as the coal mine and its owner has been described as United Mining Company Limited. The compensation payable has also been mentioned as a sum of Rs.9,17,000/- In other words, by virtue of Section 3, the United Mining Company was being divested of its right, title and interest in the mine. The amount of compensation payable to the company was also fixed by the statute. Section 3



read with the Schedule leaves no room for doubt that only the interest of the company and nobody else was being acquired under Section 3. The company may have taken a house on lease, but the lessor was not divested of ownership of the house in any way by virtue of the provisions of Section 3.

If this argument is upheld, it will make the extended meaning given to 'mine' in sub-section (h) of Section 2 nugatory and of no effect. "Coal mine" has been defined by Section 2(b) to mean a mine in which there exists one or more seams of coal. 'Mine' has been defined to include amongst others all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom, all lands, buildings works, vehicles, railways tramways and sidings in, or adjacent to a mine and used for the purpose of the mine, all workshops (including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshop stands) in or, adjacent to, a mine and used substantially for the purposes of the mine, all power stations in a mine or operated primarily for supplying electricity for the purpose of working the mine. All these things may not belong to the owner to come within the ambit of the Nationalisation Act. The extended definition of mine has been given in order to ensure that after taking over of the mine, the Central Government is in a position to operate the mine and extract coal and do everything that is needful for the purpose of working the mine. In fact, the phrase "belonging to the owner of the mine" is to be found only in sub-clauses (viii), (x) and

(xii) That clearly goes to show that the other assets, movable or immovable, which were being actually used and utilised for operation of the mining activity were all being taken over by the Central Government even though these did not belong to the owners. There is no sense in giving this extended meaning to 'mine' if the intention of the Act was not to acquire the right of ownership in these assets falling within the definition of 'Mine'.

It is also of significance that Section 3 speaks of vesting of "right, title and interest of the owners in relation to the coal mines specified in the Schedule". All ownership rights not only of, but in relation to, the coal mines were being taken over by the Central Government free from all encumbrances from the appointed day. The Section also does not speak of the right, title and interest of the owners specified in the Schedule. On the contrary, it speaks of "coal mines specified in the Schedule". On the contrary, it speaks of "coal mines specified in the Schedule". In other words, the coal mines specified in the Schedule are being brought under the ownership of the Central Government which will take in everything included in the definition of mine. The ambit of the coal mine has to be understood in the sense as given in the Act. The fact that the name of the company has been given as the owner and the amount of compensation has also been fixed in the Schedule does not mean that the vesting was confined only to the assets of the company in the mine. The Schedule contains a list of the mines which have vested in the Central Government. In order to ascertain exactly what has vested in the Central Government, the definition of 'mine' given in Section 2(h) will have to be taken into account. What the Schedule has done is to give the names and location of the mines, the names and addresses of the owners of the mines and also the amounts of compensation to be paid. It is not in dispute that United Mining Company was named as the owner of Victory coal mine. From this, however, it does not follow that all assets, lands, buildings and equipments which fall within the ambit of the definition of mine as given in Section 2(h) and also sub-sections (3) and (5) of Section 26, it will be clear that vesting under Section 3 was not confined to the interest of the

owner named in column 4 of the Schedule.

The contention that Section 3 was of limited application and only took away the rights of the owners specified in the Schedule is not borne out of the scheme of the Act and also the wording of Section 3.

Section 3 of the Act which deals with acquisition of the rights of owners of coal mines in relation to the coal mines, requires to be interpreted in the light of the objects for which the Coal Mines (Nationalisation) Act, 1973 was enacted. As set out in the Preamble, the purpose is reorganising and reconstructing such coal mines so as to ensure a rational, coordinated and scientific development and utilisation of coal resources. Therefore, all assets required for functioning of coal mines are to be acquired.

The two key words for the purpose of interpreting Section 3 are 'mine' and 'owners'. If we look at the definition of a 'mine' under Section 2(h), the definition is designed to cover:-

(1) all properties "belonging to the mine" whatever be the nature of these properties, as also specified properties "belonging to the owner of the mine". Thus, for example, Section 2(h)(xii) is an omnibus clause which covers all fixed assets, moveable and immoveable, belonging to the owner of a mine wherever situate and current assets belonging to a mine whether in its premises or outside. Section 2(h)(viii) covers all coal belonging to the owner of the mine. Section 2(h)(x) covers all lands, buildings and equipment belonging to the owners of a mine, and in, adjacent to or situated on the surface of the mine. where washing of coal or manufacture of coke is carried on. (2) In addition, the definition of 'mine' also covers all those assets which are required for a proper functioning of the mine irrespective of whether these assets 'belong' to a mine or not. Thus, for example, Section 2(h)(vi) covers all lands, buildings, machinery and equipment, instruments, stores, vehicles, railways, tramways etc. adjacent to a mine and used for the purposes of the mine. Therefore, all these assets if they are lying adjacent to a mine and are required for the proper functioning of the mine would be acquired irrespective of whether they belong to the "owner of a mine" or not. Similarly under Section 2(h)(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 will be acquired irrespective of whether the power-stations belonged to the mine or owner of the mine, or not. Sub-clause (xi) of Section 2(h) provides that all other [other than those in sub-clause (x)] lands and buildings 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 are also acquired. Unlike sub-clause (x), sub-clause (xi) does not contain the words "belonging to the owners of the mine". Therefore, the definition clause of 'mine' covers at least two different kinds of property; (i) properties which belong to the mine and (ii) properties which are used by the mine for a proper functioning of the mine. The first category of properties would be properties which are of the ownership of the mining company. These could also be properties which are leased by the mining company or in possession of the mining company and used by it.

That is why under Section 2(n) and 2(o) read together, the term 'owner' would carry wider meaning assigned to that term under the Mines Act of 1952 which would cover, depending on the context, even the rights of a lessee or occupier of the mine or any part thereof. Thus the entire interest in the

properties which are covered under the definition of a mine is to be acquired so that the mines can be reorganised and run efficiently.

In this context, therefore, Section 3 refers to the acquisition of the rights of owners in respect of all the properties which are covered by the definition of a 'mine'.

Regarding those properties which are not of the ownership of the coal mine, it is clear from the definition of 'mine' that only properties which are required for a proper functioning of the mine and which are covered by the definition would be acquired. Any and every property belonging to another person which happens to be on the surface of the mine or adjacent to it is not taken away. Only those properties of another person which fall within the definition of a mine and which are necessary for a proper functioning of the mine are to be taken away. The definition itself takes care of this aspect by stipulating wherever necessary that such properties must be used for the purpose of the mine, whether the purpose is specified or general.

The judgment of the Bombay High Court in *Telco Limited v. Bharat Mining Corporation Ltd. & Ors.*, AIR 1980 Bom. 168, has taken a very narrow view of Section 3(1) of the Coal Mine (Nationalisation) Act in holding that it is only the right, title and interest of those owners whose names appear in the Schedule against the respective coal mines that is intended to be acquired and transferred to the Central Government. It ignores both the definition of 'mine' as also the definition of 'owner'. The other two judgments *Valley Refractories Pvt. Ltd. & Anr. v. K.S. Garewal*, AIR 1978 Cal. 574, and *Coal Mines Authority Ltd. & Ors. v. Associated Cement Companies Ltd.*, AIR 1986 M.P. 241, have basically examined the definition of 'mine' in order to see whether the asset in question which was under consideration before them, falls within the definition of 'mine' under the said Act. That is the correct approach, especially because of the extended definition of a mine and the distinction which the definition itself makes between properties belonging to the mine or owner of the mine and properties which are used for the purposes of the mine. The two decisions also take into account the wider definition of an 'owner'. Such an interpretation would also be in consonance with Section 26(3) which takes care of the right of persons who are not described as owners of the coal mines in the Schedule to claim compensation. If their interests were not to be taken over under the Nationalisation Act, there would be no need to provide for any compensation for them.

In the light of the definition of an 'owner' which also includes a lessee or an occupier apart from the immediate proprietor, and the definition of 'mine', one can conclude that even assets of which the mine or the mining company may not be the proprietor, but which are leased by the mine or which are in the possession of a mine over a period of time, are also acquired. A temporary acquisition, or a short-term lease, or even some special additional amenities which the mine may provide but which are not required for the purposes of the mine may not be covered. It will depend upon the facts of each case. In the Madhya Pradesh case, for example, the equipment in question was only temporarily in the possession of the mine to meet certain exigencies. This was held to be not covered by the definition of mine. In the Calcutta case, however, the weigh bridge which was leased by the company was a necessary equipment for the proper functioning of the mine and was installed in the mine for a period of time. It was held as falling within the definition of a 'mine'. Thus it is quite possible that property which is temporarily in or adjacent to a mine, and which does not belong to

the mine, or certain machinery and equipment which does not belong to the mining company but may be temporarily leased to meet some special temporary requirements, would not be covered by the definition of a 'mine'. But the present case is not such a case.

The scheme of payment of compensation also goes to show that apart from the owners named in the Schedule, other persons may have to be compensated. Section 8 of the Coal Mines (nationalisation) Act lays down that the "owner of every coal mine or group of coal mines specified in the second column of the Schedule shall be given by the Central Government, in cash and in the manner specified in Chapter VI for the vesting in it, under Section 3, of the right, title and interest of the owner in relation to such coal mine or group of coal mines, an amount equal to the amount specified against it in the corresponding entry in the fifth column of the Schedule." The commissioner of payments to be appointed under Section 17 for the purpose of disbursement of the amounts specified in the Schedule has to consider and investigate the claim of every person against the owner and decide the validity of the claim. The Commissioner may transfer the claim for settlement to an authorised person.

A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal. Provisions of Section 26 of Coal Mines (Nationalisation) Act are important for the purpose of this case:

"26. Disbursement of amounts to the owners of coal mines. (1) If out of the monies paid to him in relation to coal mine or group of coal mines specified in the second column of the Schedule, there is a balance left after meeting the liabilities of all the secured and unsecured creditors, the Commissioner shall disburse such balance to the owner of such coal mine or group of coal mines.

(2) Before making any payment to the owner of any coal mine or group of coal mines under sub-section (1), the Commissioner shall satisfy himself as to the right of such person to receive the whole or any part of such amount, and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount, referred to in sections 8 and 9, the Commissioner shall refer the matter to the Court and make the disbursement in accordance with the decision of the Court.

(3) For the removal of doubts, it is hereby declared that the entries in the fourth column of the Schedule shall not be deemed to be conclusive as to the right, title and interest of any person in relation to any coal mine specified in the corresponding entries in the second column of the Schedule and evidence shall be admissible to establish the right, title and interest of any person in relation to such coal mine.

(4) In relation to a coal mine the operations of which were immediately before the taking over the management of such coal mine under the Coal Mines (Taking Over of Management) Act, 1973, under the control of a managing contractor, the amount specified in the fifth column of the Schedule against such coal mine shall be

apportioned between the owner of the coal mine and such managing contractor in such proportions as may be agreed upon by or between the owner and such managing contractor, and in the event of there being no such agreement, in such proportions as may be determined by the court on a reference made to it by the Commissioner.

(5) Where any machinery, equipment or other property in a Coal Mine has vested in the Central Government or a Government company under this Act, but such machinery, equipment or other property does not belong to the owner of such coal mine, the amount specified in the fifth column of the Schedule against such coal mine shall, on a reference made to it by the Commissioner, be apportioned by the Court between the owner of such coal mine and the owner of such machinery, equipment or other property having due regard to the value of such machinery, equipment or other property on the appointed day.

(6) Where the amount specified in the fifth column of the Schedule is relateable to a group of coal mines, to Commissioner shall have power to apportion such amount among the owners of such group, and in making such apportionment, the Commissioner shall have regard to the highest annual production in the coal mine during the three years immediately preceding the appointed day."

Sub-section (1) speak of "monies paid to him in relation to a coal mine". The money payable to an owner shall be utilised first to pay to secured and unsecured creditors. If any balance is left thereafter, it shall be disbursed to the owners. Sub-section (2) provides that before making any payment to the owner, the Commissioner has further to satisfy himself as to the right of the person to receive "the whole or any part of such amount'. In other words, merely because the name of a colliery owner is shown in the 4th column as the owner will not enable him to get the entire amount allocated in column 5 Other parties may claim a portion of that amount. In such a situation, the Commissioner has to refer the dispute to the court for decision. For the removal of doubts, sub-section (3) has declared that the entries in the 4th column of the Schedule shall not be deemed to be conclusive as to the right, title and interest of any person in relation to any coal mine. Any other claimant may adduce evidence to establish his right, title and interest in relation to such coal mine. These provisions clearly go to show that the colliery company named in the 4th column is not the only person who will be paid the compensation money. If plants, machinery and building which come within the definition of "mine" are not owned by the person named in the 4th column, then the Commissioner will have to satisfy himself as to the right of any other person who owns such plants or machineries or buildings and divide the amount of compensation among such persons and the persons named in the 4th column.

The controversy has been put beyond any doubt by sub- section (5) of Section 26 which specifically provides for apportionment of the compensation money when any machinery, equipment or other property which does not belong to the owner of the mine has vested in the Central Government. The amount may be apportioned between the person named in the 4th column and the owner of machinery, equipment or other property by a court. All these provisions clearly go to show:-

(1) Mere mention of the name of the owner of a coal mine in 4th column is not conclusive of its rights to get the entire amount of compensation specified in the 5th column. (2) There may be other claimants for the amount. The dispute may be resolved by a court on reference by the Commissioner.

(3) Machinery, equipment or other property in a coal mine which does not belong to the owners specified in the 4th column may vest in the Central Government or a Government Company.

(4) If such vesting takes place, then the owner of such machinery, equipment or property may be compensated out of amounts specified in the 5th column.

(5) The claim of such owners as against the owners named in the 4th column may be referred to a court and the compensation money may be apportioned by the court between the owner of the coal mine and the owner of machinery, equipment or other property.

In the context of Section 3 and also Section 26, the owner has to be understood as owner of a mine in the extended sense given in Section 2(h). The limited definition of the word 'mine' given in the Mines Act, 1952 has not been designedly adopted by the Coal Mines (Nationalisation) Act. All these provisions go to show that it was not only the interest of the owners of the coal mine specified in the fourth column, but also the ownership of all other persons in the properties enumerated in Section 2(h) vested in the Central Government by virtue of the provisions of Section 3 of the Act.

That means that things which did not belong to the mine owners mentioned in column 4 of the Schedule but fall within sub-clauses (i) to (xii) of Section 2(h) of the Nationalisation Act will vest in the Central Government free from all encumbrances. If the mine owner had located staff quarters and offices on rented buildings, these will also vest in the Central Government.

In view of the aforesaid, we hold that the suit premises fall within the ambit of the definition of 'mine' in Section 2(h) of the Coal Mines (Nationalisation) Act, 1973 and as such had vested in the Central Government on the appointed day by virtue of the provision of Section 3 of the Act, even though these premises might not have been in the ownership of the United Mining Company.

The appeal is allowed. The impugned judgment under appeal dated 20.11.1992 is set aside. There will be no order as to costs.

C.A. NOS.1727-1731 OF 1990 AND C.A.NO. 4673 OF 1994 In view of our judgment in C.A. NO.2463 OF 1993, the above appeals are also allowed. The judgments under appeal are set aside. NO order as to costs.