

Supreme Court of India

Eastern Coalfields Limited vs Raviudyog on 14 January, 1994

Equivalent citations: 1994 SCC, Supl. (2) 466

Author: M Punchhi

Bench: Punchhi, M.M.

PETITIONER:

EASTERN COALFIELDS LIMITED

Vs.

RESPONDENT:

RAVIUDYOG

DATE OF JUDGMENT 14/01/1994

BENCH:

PUNCHHI, M.M.

BENCH:

PUNCHHI, M.M.

JEEVAN REDDY, B.P. (J)

CITATION:

1994 SCC Supl. (2) 466

ACT:

HEADNOTE:

JUDGMENT:

## ORDER

1. Leave granted.

2. We have no hesitation in allowing this appeal. The respondents had a money-claim against the appellants. Instead of moving the appropriate court in a suit, they approached the Calcutta High Court under Article 226 of the + Arising out of SLP (C) No. 14531 of 1993 Constitution. The writ petition attracted a counter from the appellant who raised a counter-claim. Without advertng to the counter-claim, the High Court went on to grant relief of payment of certain sums to the writ petitioner on the basis of certain suggested admissions made by the appellant. The High Court then followed two separate courses inasmuch as relegating the appellant to the remedy of suit insofar as his counter-claim was concerned and ordering payment against the appellant insofar as the admissions went. This twin course appears to us as to be wholly wrong. It does not appeal to us as to why a party has to go piecemeal in the civil court, though it is appreciable that when a claim is

admitted, a decree may be permissible to be passed under the Code of Civil Procedure. But that too has to happen in a suit before an appropriate court of law. We thus are persuaded to straighten out things which have gone awry, if not for anything else at least for the sake of procedural and judicial discipline. Therefore, we allow this appeal, set aside the impugned order of the High Court effecting a remittal, directing the writ petition to be treated by the High Court as a plaint and the counter filed by the appellant thereto as written statement, to be tried as a suit by the High Court on its original side treating it to have been filed on the date on which it was originally filed. Likewise, the counter of the appellant shall also be treated as a counter-claim having been filed on the date it was filed. The High Court on its original side shall regulate the suit by permitting the parties to make good deficiencies in the requisite court fees and by amendment of pleadings if permission sought. We make it clear that if the trial Judge considers that there are any admissions of claim, it may at an appropriate stage pronounce upon the same piecemeal if permitted under the law. With these directions, the matter is remitted to the High Court on its original side. Costs of this Court shall abide by the event in the trial court.