

Supreme Court of India

Waste Products Reclamor Private ... vs Bharat Coking Coal Ltd. And Ors. on 25 February, 1993

Equivalent citations: 1993 (1) SCALE 738, 1993 Supp (2) SCC 358

Bench: K J Reddy, N Singh

JUDGMENT

1. Leave granted.

2. Both these appeals are filed against the common judgment of a Division Bench of the High Court in two Civil Writ Jurisdiction Case Nos. 7026/90 and 2727/91. As the facts and points raised are identical and similar in both the appeals, they are being disposed of together.

3. Before the High Court, C.W.J.C. No. 7026/90 was filed by M/s. Bharat Coking Coal Limited, a Government Company being a subsidiary of Coal India Limited (for short "the Company") which owns Dugdha Coal Washery in the District of Giridih in State of Bihar. For the purpose of future development and other expansion programmes of the said Washery, it needed the adjacent land, on 24.9.77 a proposal for acquisition of 200 acres of land for the said Washery was submitted to the Director, Land Acquisition, Government of Bihar, Patna and an amount of Rupees one lac was deposited as advance for the acquisition process. With the approval of the competent authority, an administrative order was passed on 17.3.81. The land proposed to be acquired was divided into three categories. The first category consisted of 92.67 acres - 3/4th of the raiyati land. The State Government gave its clearance for the acquisition of this land in the year 1981 and a notification under Section 4 of the Land Acquisition Act (for short "the Act") was published in the District Gazette on 16.6.81 and a declaration under Section 6 of the Act on 28.2.83. No objections were filed by any person against these notifications. The company was directed to deposit the compensation amount of Rs. 21,75,780.59 as required by the Land Acquisition Officer and 28.5.86 was fixed as the date for payment of compensation to raiyats. The Land Acquisition Officer did not take any further steps either on that date or on any subsequent date. The Land Acquisition Officer entertained a petition for the first time in the month of June 1986 filed by M/s. Waste Products Reclamor Private Ltd. and for the purpose of considering the said objections further acquisition proceedings got stalled. The Company, which was not given the possession of the land, filed C.W.J.C. No. 7026/90 in the High Court in which the objector M/s. Waste Products Reclamor Private Ltd. figured as respondent No. 5. The raiyats opposing the acquisition filed C.W.J.C. No. 2727/91 and they also got impleaded as interveners in the C.W.J.C. filed by the Company. The High Court allowed C.W.J.C. 7026/90 filed by the Company holding that M/s. Waste Products Reclamor Private Ltd. as well as the interveners namely the raiyats should not be allowed to raise any objection at that stage and directed the officers to give possession of the acquired land to the Company. In that view of the matter other C.W.J.C. No. 2727/91 filed by the raiyats was dismissed. Questioning the same M/s. Waste Products Reclamor Private Ltd. and the raiyats have filed these two appeals.

4. To proceed further it may be stated here that M/s. Waste Products Reclamor Private Ltd. has been claiming to have got the settlement from the State Government regarding collection of slurry deposited in the said land as well as in the vicinity and on that basis it claimed to be an interested party who could validly object to the acquisition particularly on the ground that the land in question

comes under the coal bearing area and therefore it could not be acquired by the State Government. The plea of the raiyats before the High Court has been that the notifications under the Land Acquisition Act are invalid as they have not been published in the official Gazette as required under the provisions of the Act.

5. In these appeals the learned Counsel appearing for the appellant M/s. Waste Products Reclaimor Private Ltd. contended that the land in question comes within the meaning of "coal bearing area" and can be acquired only under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957. According to the learned Counsel the slurry that is discharged into the land under acquisition comes within the meaning of "coal" and the land in turn comes within the meaning of "coal bearing area". In this context he placed reliance on a judgment of this Court in *Bharat Coking Coal Ltd. and Ors. v. State of Bihar and Ors.* (1990) 4 SCC 557. We see no force in the submission. In *M/s. Bharat Coking Coal Ltd.'s case* (supra) this Court was concerned with the question whether the coal slurry deposited on river bed on the escape from the washery of coalmine comes within the meaning of "coal" and if so whether the State Government had power to regulate the discharge and disposal of such slurry. This Court having held that the slurry deposit comes within the meaning of "coal" and lifting of the same amounts to mining operations and lease and settlement for that purpose by the State Government are illegal and the lessees as per the settlement with the State Government had no right or title to collect the slurry deposit. The whole issue involved was whether the State Government had power to enter into a settlement with the party for collection of slurry deposit which comes within the meaning of "coal." This Court was not concerned with the acquisition of the land by the State Government and did not deal with that aspect at all. In any event by virtue of the said decision of the Supreme Court the appellant M/s. Waste Products Reclaimor Private Ltd. had no locus standi as it is no more entitled to collect the slurry and therefore it can not object to the acquisition of the land under the Act.

6. The main objection of the raiyats in the other appeal is that the Notification under Section 6 has not been published in the official Gazette and was published, only in the District Gazette and since the same is not in accordance with the provisions of Section 6, the acquisition proceedings should be quashed. This is a highly technical objection. The raiyats never raised any objection for so many years but sought to intervene for the first time in the High Court. For matter that even M/s. Waste Products Reclaimor Private Ltd. also raised objection only in 1986 but the present position is that it does not have locus standi to object the acquisition of land as the right to collect the slurry stands extinguished in view of the above judgment of the Supreme Court. The respondent Company has deposited a huge amount towards compensation as early as in the year 1986 and the acquisition proceedings commenced in the year 1980.

7. In these facts and circumstances, we are of the view that these are not fit cases for intervention under Article 136. Accordingly both the appeals are dismissed. There will be no order as to costs.