

(1998) 04 SC CK 0052

In the Supreme Court Of India

Case No : Civil Appeal No. 1907 of 1988

Bharat Coking Coal Ltd.

APPELLANT

Vs

Shyam Sunder Prasad and Others

RESPONDENT

Date of Decision : 23-04-1998

Acts Referred:

Coal Mines (Nationalisation) Act, 1973 — Section 2
Coal Mines (Taking Over of Management) Act, 1973 — Section 2, 3(2)
Mines Act, 1952 — Section 2

Citation : AIR 1999 SC 560 : (1998) AIRSCW 3898 : (1998) 5 JT 615 : (1998) 5 SCC 512

Hon'ble Judges : G. N. Ray, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Despite substitute service effected by giving publication of the notice in Hindustan and Aaj published from Patna, no one has appeared for the respondents. The respondent instituted a suit for declaration that some machinery had not vested under the Coal Nationalisation Act. The suit was declared in favour of the plaintiff-respondent by following the definition of "owner" and "mine" under the Mines Act. It may be stated that the limited nature of the definition of mine in the Mines Act was noticed by this Court in the decision in Serajuddin and Co. Vs. Their Workmen, . It was held that mine in Section 2(j) of the Mines Act excluded an office of mine which was separately defined by Section 2(k). The office of the mine even though situated on the surface of the mine did not fall within the definition of mine. However, in the Coal Mines (Taking Over of Management) Act, 1973, an extended meaning was given to the expression "mine" and under the said Act, the management of coal mines vested in the Central Government on and from the appointed day, namely, from 30-1-1973 and the coal mines specified in the Schedule of the Act were deemed to be the mines of which the management vested in the Central Government by virtue of provisions of Section 3(2) of the said Act. The Coal Mines (Taking Over

of Management) Act, 1973 was followed by the Coal Mines (Nationalisation) Act, 1973 and the extended definition of mine as indicated in the Coal Mines (Taking Over of Management) Act was retained in Section 2(h) of the Nationalisation Act with modification. The definition of "mine" has been noticed by this Court in the decision of Bharat Coking Coal Ltd. Vs. Madanlal Agrawal, and it has been held on consideration of the definition of "owner" and "mine" in the said Coal (Nationalisation) Act that even assets in respect of which the mine or the mining company may not be the proprietor but which were leased to the mine or which were in the possession of a mine over a period of time, would stand acquired. In the instant case, the machineries concerned were boilers and from the nature of the user it can be reasonably held that the same were used in connection with the mining operation. Under the extended definition of mine in the Coal Nationalisation Act such machine had therefore vested. We, therefore, allow this appeal and set aside the impugned judgment and decree. There will, however, be no order as to costs.