
(1984) 04 PAT CK 0014

In the Patna High Court

Case No : Civil Writ Jurn. Case No. 1605 of 1979

Central Coalfields Ltd.

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 13-04-1984

Acts Referred:

Coal Mines (Nationalisation) Act, 1973 — Section 3, 4

Citation : AIR 1985 Patna 23 : (1984) PLJR 491

Hon'ble Judges : Lalit Mohan Sharma, J; Anand Prasad Sinha, J

Bench : Division Bench

Advocate : Balabhadra Prasad Singh, Bindabashini Prasad Sinha and Vishwa Mohan Kumar Sinha, for the Appellant; Rambalak Mahto, A.A.G. and Syed Rafat Alam, Jr. Counsel to A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

Lalit Mohan Sharma, J.—The petitioner is a Government company in which the right, title and interest in relation to the coal mines including Jagal Daga colliery, mentioned in the Schedule to the Coal Mines (Nationalisation Act) 1973, have vested u/s 5 of the Act.

2. The District Mining Officer, respondent 3, made a demand by notice Annexure "1" with respect to the dead rent for the period 1-3-73 to 30-9-74 at the maximum rate, as prescribed by the Third Schedule to the Mines and Minerals (Regulation and Development) Act, 1957, payable to the State of Bihar u/s 9A of the Act. A proceeding under the provisions of the Public Demands Recovery Act was started for realisation of the demand. The petitioner denied the liability on the ground that the lease in its favour must be treated as a new lease with effect from 1-5-73 and no dead rent is.

Therefore, payable for the period 1-5-73 to 30-4-74; and, for the remaining period, the rent is payable at the minimum rate of Rs. 12.50 per hectare per annum. By order in Annexure "3", the Certificate Officer, respondent 2, rejected

the petitioner's objection. This writ application has been filed for quashing Annexures 1 and 3.

3. In pursuance of a decision to nationalise the coal mines, The Coal Mines (Taking Over of Management) Ordinance (Ordinance No. 1 of 1973) was passed and was followed by the Coal Mines. (Takingover of Management) Act, 1973. Subsequently, the Parliament passed Coal Mines (Nationalisation) Act, 1973 (Act 26 of 1973) which came into force on 1-5-1973 whereby a number of coal mines including Jagal Daga colliery mentioned in the Schedule belonging to one Mr. S.K. Dutta stood transferred to the Central Government. The object was to ensure rational, coordinated and scientific development and utilisation of the coal resources of the country. In exercise of the powers u/s 5(1) of the Nationalisation Act, the Central Government directed the vesting of the collieries in the Coal India Ltd., a Government company. The petitioner is a subsidiary company.

4. The Act came into force with effect from 1-5-1973 which date has been referred to in Section 2(a) as the appointed day. The transfer of the interest of the owners in relation to the specified coal mines took place u/s 3(1) of the Act which is in the following terms :

"3. Acquisition of rights of owners in respect of coal mines :-- On the appointed day, the right, title and interest of the owners in relation to the coal mines specified in the Schedule shall stand transferred to, and shall vest absolutely in the Central Government free from all encumbrances."

The Central Government (or the Government company as the case may be) became the lessee under the State Government by virtue of the provisions of Section 4 which is quoted below :

"4. The Central Government to be the lessee of the State Government : --

(1) Where the rights of an owner under any mining lease granted, or deemed to have been granted, in relation to a coal mine by a State Government or any other person, vest in the State Government u/s 3, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of the State Government or such other person, as the case may be, in relation to such coal mine as if a mining lease in relation to such a coal mine had 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 or such other person under the Mineral Concession Rules, 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.

(2) On the expiry of the term of any lease, referred to in Sub-section (1), such lease shall, if so desired by the Central Government, be renewed, on the same terms and conditions on which the lease was held, immediately before the appointed day, by the lessor, for the maximum period for which such lease can

be renewed under the Mineral Concession Rules."

5. Before the nationalisation of the Jagal Daga Colliery. Mr. Dutta was paying dead rent at the maximum rate. The Third Schedule to the Mines and Minerals (Regulation and Development) Act exempts the payment of dead rent for the first year of a mining lease and the annual rate for the second year to the fifth year is Rs. 12.50 per hectare, for the 6th to 10th year is Rs. 25.00 and thereafter Rs. 37.40 p. The case of the petitioner is that the lease in its favour must be treated to be a fresh mining lease with effect from 1-5-73 so that the petitioner may enjoy the benefit of exemption of the first year and the lower rates as for the subsequent period.

6. Mr. Balabhadra Prasad Singh, learned counsel for the petitioner, contended that the relevant provisions of the Nationalisation Act are similar to those of the Bihar Land Reforms Act, 1950 and therefore in view of the decisions of the Supreme Court in Bihar Mines Ltd. Vs. Union of India (UOI), , Chhatu Ram Horil Ram Ltd. Vs. State of Bihar and Another, and State of Bihar and Others Vs. Khas Karanpura Collieries Ltd. and Others, , the mining lease in favour of the petitioner must be treated to be a new lease. I do not find myself in a position to accept the argument.

7. Under the Bihar Land Reforms Act, the entire interest of the intermediary inclusive of the rights of a lessee of mines and minerals came to an end and vested absolutely in the State; and certain rights were conferred by the statute on the proprietors, tenure holders and also the lessees. It was therefore, held that the new statutory rights were fresh rights and new leases brought in existence by the Act were not merely continuance of the earlier leases but were fresh leases. The Supreme Court expressly pointed out that the entire interest of the intermediary free from encumbrance vested in the State. So far as the Coal Nationalisation Act is concerned, the right of the State remained intact and the right, title and interest of the owners of coal mines stood "transferred" to the Central Government. The expression "transferred" unmistakably conveys the idea of continuity of the leases. While dealing with the devolution of the interest on the Central Government, Section 4 again refers back to Section 3 and towards the end of Sub-section (I) again uses the word "transferred". There is thus a very significant difference in the language of the two Acts which renders the cited Supreme Court decisions unhelpful to the petitioner. It was urged that since as a result of the statutory transfer, there is a new lease in place of the old one, the present lease must be treated as different from the earlier one leading to the further conclusion that the present lease is a fresh lease. It is not possible to hold that as a result of a transfer by a lessee of his interest in a mining lease, a fresh lease comes into existence for the purpose of computation of the dead rent, otherwise the mining lessees (before the nationalisation) could have escaped payment of dead rent permanently by frequent transfers in favour of each other. I, therefore, hold that for the purposes of interpreting the Schedule to the Mines and Minerals (Regulation and Development) Act, dealing with the rate

of dead rent, the lease created in favour of the petitioner is a continuance of the earlier lease of Mr. Dutta and the impugned demand at the maximum rate is well founded.

8. The writ application is, therefore, dismissed, but, in the circumstances, without costs.

Anand Prasad Sinha, J.

9. I agree.