
(1995) 12 SC CK 0093

In the Supreme Court Of India

Case No : Civil Appeal No's. 2774-75 of 1980

Karanpura Development Company Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 14-12-1995

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 10A

Coal Bearing Areas (Acquisition and Development) Act, 1957 — Section 14(2), 4, 7

Citation : AIR 1996 SC 2879 : (1995) 9 JT 565 : (1996) 1 SCALE 74 : (1996) 7 SCC 393 : (1995) 6 SCR 684 Supp

Hon'ble Judges : K. Ramaswamy, J;B. L. Hansaria, J

Bench : Division Bench

Advocate : D.N. Gupta, Shipra G. Jain and R.A. Perumal, for the Appellant; V.C. Mahajan, Praveen Swarup, A.K. Sharma and C.V.S. Rao, for the Respondent

Final Decision : Allowed

Judgement

1. The appellant initially had a stint with the Raja of Ramgarh to execute mining licence, whereat he ultimately succeeded in getting 999 years lease executed on August 30, 1946. But his lease was short lived due to the implementation of Land Reforms Act, 1950, which put an end to the lease hold right. The only question is whether it would be entitled for compensation in that behalf. Though the lessees in similar situation were unsuccessful, subsequently they succeeded in this Court. By operation of Section 4(1) of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (for short, 'the Act') and (he notification issued u/s 7 thereof which came to be published in the Gazette of Government of India dated August 24, 1963, the question is whether the appellant is entitled to the compensation. 'The High Court held that since the appellant is only he lessee is not entitled for the compensation. The controversy is no longer res Integra. This Court in Karanpura Development Company Vs. Union of India (UOI) and Others, held that the position as it stood prior to the change in the law, by the introduction of Section 10A of the Bihar Land Reforms Act, was that the head lessee, notwithstanding the sub lease, retains his position as such head lessee,

with the State Government becoming the lessor in place of the erstwhile grantor of the lease. The idea of possession u/s 10(1) cannot be so strictly construed as to be equivalent to actual physical possession. A lessee in law is in possession through a sub-lessee though possession of the sub lessee is immediate and that of the lessee mediate. Consequently it was held that the lessee is entitled to the compensation.

2. How much compensation the lessee is entitled to have from lease hold interest held by the lessee was not determined the High Court. Therefore, the quantification is now required to be done by a separate proceeding.

3. The appeal is accordingly allowed and the order of the High Court dated 4th July 1979 in Miscellaneous Petition No. 216/1971 and 217/1971 stands set aside. The State Government is directed to constitute a tribunal in that behalf u/s 14(2) of the Act which would go into the question of quantification of compensation according to law and decide the same.

4. The appeal is accordingly allowed. No costs.