

(1999) 09 MP CK 0063

In the Madhya Pradesh High Court

Case No : Writ Petition No. 582 of 1997

South Eastern Coalfields Ltd.

APPELLANT

Vs

Horilal and Others

RESPONDENT

Date of Decision : 24-09-1999

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (2000) 85 FLR 54 : (2000) 3 LLJ 551

Hon'ble Judges : C. Kumar Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

C.K. Prasad, J.—By this writ petition filed under Article 227 of the Constitution of India, petitioner prays for quashing of order dated December 10, 1996 passed by the Labour Court exercising the power u/s 33C(2) of the Industrial Disputes Act whereby it has directed the petitioner to refund the penal rents realised from respondent Nos. 1 to 8 and 10 along with interest at the rate of 12 percent per annum.

2. Short facts giving rise to the present writ petition are that respondent Nos. 1 to 8 and 10 (hereinafter referred to as the employees) are the employees of the petitioner (hereinafter referred to as employer) and during the relevant time they were posted at Govinda Colliery. Employees forcibly took possession of the quarters built by employer. Housing committee of the Colliery in its meeting held on December 4, 1997 noted the suggestion of the representative of the Union that from employees who have occupied the house unauthorisedly penal house rent may be realised but no disciplinary action be taken against them. Again employees were asked to vacate the quarters but they did not do the same. By notices dated October 24/29, 1988 they were asked to vacate quarters by October 25, 1988 failing which they were informed that penal rents shall be deducted from their salaries of the month of September 1988. They did not vacate and penal rents were deducted from the salary of the employees.

Aggrieved by the same they filed application u/s 33C(2) of the Industrial Disputes Act before the Labour Court. Labour Court by the impugned order directed the employer to refund the penal rents deducted from the employees along with 12% interest thereon.

3. Mr. Menon appears on behalf of the petitioner. After service of notices on the employees although Shri Nagrath had appeared on their behalf but, today, when the matter is taken up he pleads no instructions. Shri Menon contends when the petitioner has taken a decision to deduct penal rents from the salary of the employees and the occupation of the employees having been found to be unauthorised by the Labour Court itself, it ought not to have directed that employer to refund the penal rents deducted from the salary of the employees. Mr. Menon submits that the proceedings u/s 33C(2) of the Industrial Disputes Act is in the nature of an execution proceeding and hence Labour Court ought not to have ignored the order passed by the employer directing for realisation of penal rents from the employees. However, he states that in case the occupation of the employee is found to be unauthorised they shall be entitled for house rent.

4. I find, substance in the submission of Mr. Menon. Petitioner has taken decision to realise penal rents from the employees as they were in unauthorised occupation. Occupation of the employees has been found to be unauthorised by the Labour Court also. It is well settled that the proceeding before the Labour Court u/s 33C(2) of the Industrial Disputes Act is in the nature of execution proceedings. Hence the direction to refund penal rents realised from the employees cannot be sustained. It is set aside. However, this will not (sic) preclude the employees to receive the house rent which they would have otherwise entitled.

5. In the result, writ petition is allowed. Order dated December 10, 1995 (Annexure A1) is quashed. In the facts and circumstances of the case there shall be no order as to costs.