
(2012) 03 MP CK 0060
In the Madhya Pradesh High Court
Case No : M.A. No. 1751 of 2003

Sulochani (Smt.)	Vs	APPELLANT
Smt. Jiwaraniya and Others		RESPONDENT

Date of Decision : 01-03-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 11
Coal Bearing Areas (Acquisition and Development) Act, 1957 — Section 14, 20

Citation : (2012) ILR (MP) 972

Hon'ble Judges : R.C. Mishra, J

Bench : Single Bench

Advocate : K.P. Mishra and Amresh Mishra, for the Appellant; Rajesh Dubey, for the Lrs. of respondent No. 1 and respondents No. 2 and 3, Anoop Nair and K. Rohan for the respondent No. 4., for the Respondent

Final Decision : Allowed

Judgement

R.C. Mishra, J.—This appeal, u/s 20 of Coal Bearing Areas (Acquisition and Development) Act, 1957 (hereinafter referred to as the "Act"), has been preferred against the order-dated 14.7.03 passed by the Tribunal (constituted u/s 14 of the Act) at Sidhi in Case No. 1/2000, rejecting the claim petition preferred by the appellant for the following reasons- (i) The petition was barred by limitation.

(ii) Even otherwise, the petition was not maintainable in absence of reference as to the quantum of compensation or the persons to whom it is payable.

By virtue of sub-section (8) of Section 14 of the Act, the Tribunal, in the proceedings before it, for determining compensation, has all the powers which a civil court has while trying a suit under the Code of Civil Procedure, for the purposes of -

(i) summoning and enforcing the attendance of any person and examining him on oath;

- (ii) requiring the discovery and production of any document;
- (iii) reception of evidence on affidavits;
- (iv) requisitioning any public record from any court or office; and
- (v) issuing commissions for examination of witnesses.

2. Thus, all the powers of a Civil Court under the CPC are not exercisable by the Tribunal. Obviously, the Tribunal does not possess the power, under Order 7 Rule 11 of the Code of Civil Procedure, to reject the claim at the threshold on any of the grounds mentioned therein or to dismiss a case for default of appearance of a party. (Sheo Shankar Jaiswal v. Govt. of India 1981 MPLJ 46 referred to).

3. Moreover, any provision prescribing limitation for filing claim petition would be inapplicable in view of the fact that no amount of compensation has been disbursed to the appellant. For these reasons, the appeal is allowed and the impugned order is hereby set aside. The matter is remanded to the Tribunal for deciding the claim petition on merits, in accordance with law.