

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5908 OF 2004

M/S. EASTERN COALFIELDS LTD. . . APPELLANT (S)

VERSUS

STATE OF BIHAR (NOW JHARKHAND) & ORS. . . RESPONDENT (S)

W I T H

CIVIL APPEAL NO.5909 OF 2004

CIVIL APPEAL NO.5910 OF 2004

CIVIL APPEAL NO.2535 OF 2006

TRANSFERRED CASE (CIVIL) NO. 40 OF 2010

O R D E R

C.A.Nos.5908 of 2004, 5909 of 2004, 5910 of 2004 &
2535 of 2006

1. These appeals are directed against the judgment(s) and order(s) passed by the High Court of Jharkhand at Ranchi in CWJC Nos. 8295, 8331 and 8336 of 1999, dated 06.08.2003, and in LPA No.77 of 2005, dated 06.12.2005.

2. At the time of hearing these civil appeals, Shri Sunil Kumar, learned senior counsel appearing for the respondent-State of Jharkhand, would bring to our notice that the said respondent-herein had taken a specific contention before the High Court that the petitioners-therein had not paid royalty on the part of the stock of coal which was shown less in the next financial year.

3. In the words of the learned counsel for the State, as noticed in the impugned order, dated 06.08.2003:

"Learned counsel for the State submitted that the demands of royalty in question is for that part of the stock of coal which was shown less in the next financial year by the

petitioner company. There were variations in the returns submitted by the petitioner Company before the mining department of the State Government regarding the raising/stock of coal. The closing stock of coal has to be carried forward as the opening stock in the next financial year. But the stock of coal shown at the time of closing of the financial year in the month of March was much more than the opening stock shown in the next financial year i.e. in the month of April. He further submitted that the petitioner Company sought to explain the said shortage by saying that it has written off the said stock of coal from its books. This explanation was not accepted as the State Government was not bound by any such writing off of the stocks by the Company and the liability to pay royalty cannot be

denied on such pleas. The amounts involved in these cases run in several crores. The petitioner Company is trying its best to avoid the payment of royalty. He further submitted that although an appeal lies against the orders impugned in these cases, the petitioner Company has chosen to file these writ petitions to avoid payment of 40% of the demand required for entertaining the appeals. He also submitted that the plea raised before this Court that the royalty is not payable on stone, muck etc. extracted while mining coal, is a flimsy ground raised for the first time before this Court only to avoid payment of the lawful dues. He further pointed out that Rule 27(a), (b), (n) & (u) of the Mineral Concession Rules, 1960 provides for such a situation where any other mineral not specified in the lease is

discovered by the lessee or when non-saleable sub grade ores or minerals are bound by the lessee etc. etc. Therefore, he submitted that the conduct of the petitioner, especially when it is a Central Government Company is not fair and bonafide."

4. The contention so canvassed by the learned senior counsel for the State appears to be a pure question of fact. Furthermore, in our opinion, it appears to be a question of fact that should have been decided by the High Court. Therefore, without going into the other details of the decision in the impugned judgment(s) and order(s) passed by the High Court, we remand these matters to the High Court to answer the specific contention that was canvassed by the State.

5. In view of the above, we dispose of these civil appeals and remand these matters to the High Court of Jharkhand for an appropriate decision on the contentions canvassed by the State of Jharkhand.

6. All the contentions of both the parties are kept open to be agitated once again before the High Court.

7. Since we are remanding these matters to the High Court, for the present, we are not answering the order of reference.

Ordered accordingly.

Transferred Case (Civil) No. 40 of 2010

1. The present case has been transferred to this Court from the High Court of Jharkhand.

2. In view of the order passed by this Court in Civil Appeal No.5908 of 2004 and other connected matters, we transfer this writ petition back to the High Court of Jharkhand for their consideration and decision.

3. The Registry is directed to transfer the record of the case to the High Court of Jharkhand without any delay.

Ordered accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(MADAN B. LOKUR)

.....J.
(A.K. SIKRI)

NEW DELHI;
DECEMBER 10, 2014.

ITEM NO.101

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s). 5908/2004

M/S. EASTERN COALFIELDS LTD.

Appellant(s)

VERSUS

STATE OF BIHAR (NOW JHARKHAND) & ORS.

Respondent(s)

(with appln. (s) for permission to raise additional question of law and office report)

WITH

C.A. No. 5909/2004
(With Office Report)C.A. No. 5910/2004
(With Interim Relief)C.A. No. 2535/2006
(With Office Report)T.C.(C) No. 40/2010
(With Office Report)C.A. No. 303/2004C.A. No. 307/2004
SLP(C) No. 8972-8973/2014
(With appln.(s) for exemption from filing O.T., permission to file additional documents, exemption from filing c/c of the impugned judgment, prayer for interim relief and Office Report)SLP(C) No. 9016-9017/2014
(With appln.(s) for stay and appln.(s) for exemption from filing c/c of the impugned judgment, prayer for interim relief and Office Report)

Date: 10/12/2014 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE MADAN B. LOKUR
 HON'BLE MR. JUSTICE A.K. SIKRI

For Appellant(s)

SC 9016-17/2014

Mr. Dushyant Dave, Sr. Adv.

SC8972-73/2014

Mr. Punit Dutt Tyagi, Adv.

Mr. Ankit Parhar, Adv.

CA 5909/2004,

Mr. Anip Sachthey, Adv.

5910/2004, TC40/2010

Mr. Mohit Paul, Adv.

Ms. Shagun Matta, Adv.

CA 303/2004

Mr. M. K. Dua, Adv.

CA 307/2004

Mr. Sunil Kumar, Sr. Adv.

Mr. Anil K. Jha, Adv.

CA2535/2006

Mr. Anupam Lal Das, Adv.

For Respondent(s)

UOI

Mr. L. Nageshwar Rao, ASG

Ms. Revathy Raghavan, Adv.

CA 5908/2004, 5909/2004

Mr. Sunil Kumar, Sr. Adv.

5910/2004 2535/2006

Mr. Gopal Prasad, Adv.

Mr. Jayesh Gaurav, Adv.

5910/2004

Mr. Manish Kumar Saran, Adv.

TC 40/2010,

Mr. Sunil Kumar, Sr. Adv.

CA303/2004

Mr. Anil K. Jha, Adv.

CA 307/2004

Mr. Dushyant Dave, Sr. Adv.

Mr. Punit Dutt Tyagi, Adv.

Mr. Ankit Parhar, Adv.

SC 9016/2014
8972/2014

Mr. Sunil Kumar, Sr. Adv.
Mr. Devashish Bharuka, Adv.
Mr. Ravi Bharuka, Adv

UPON hearing the counsel the Court made the following
O R D E R

C.A.Nos.5908/2004, 5909/2004, 5910/2004, 2535/2006 and
T.C.(C) 40/2010

Civil appeals and transferred case are
disposed of in terms of the signed order.

C.A. Nos. 303/2004, 307/2004, SLP(C) Nos. 8972-8973/2014
and 9016-9017/2014

List these matters on 11.12.2014 for hearing.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar

(signed order is placed on the file.)