

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2363 OF 2016  
(Arising out of S.L.P. (C) No.17382 of 2011)

Eastern Coalfields Ltd. Appellant(s)

Versus

State of Jharkhand and Others Respondent(s)

W I T H

CIVIL APPEAL NO.5651 OF 2005  
CIVIL APPEAL NO.5650 OF 2005

O R D E R

Civil Appeal No.2363 of 2016 @ S.L.P. (C) No.17382 of 2011

Leave granted.

In this appeal, by special leave, the assail is to the judgment and order dated 24<sup>th</sup> November, 2010, passed by the High Court of Jharkhand at Ranchi in C.W.J.C. No.1266 of 2000 (P), whereby the Division Bench of the High Court has declined to entertain the writ petition and, consequently, dismissed the same.

The facts lie in a narrow compass. The respondent-State of Jharkhand, issued a demand under the Bihar & Orissa Public Demands Recovery Act, 1914 (for short,

'the Act'). Assailing the demand, the appellant preferred the writ petition, contending, *inter alia*, that the demand made runs absolutely counter to the language employed in Section 9(1) of the Mines and Minerals (Development and Regulation) Act, 1957, for it stipulates payment of royalty on the minerals removed from the leasehold area. Be it noted, the stand of the State was that the stock of 103594.02 metric ton was shown as 32699.63 metric ton in the monthly royalty return of November, 1997, and, therefore, the demand was made in respect of 70894.39 metric ton of coal. Be it noted, though the High Court has not adverted to the same, but on certain grounds it has dismissed the writ petition.

When similar matters were listed before this Court, a reference was made for reconsideration of the decision in State of Orissa and Others vs. Steel Authority of India Ltd. (1998) 6 SCC 476 *vide* order passed in Central Coalfields Limited vs. State of Jharkhand and Others (2010) 15 SCC 603. When the matter was listed before a three-Judge Bench, the three-Judge Bench has passed the following order:-

"The contention put forth in this case is that for the purpose of Section 9 of the Mines & Mineral (Regulation & Development) Act, 1957, the expression 'removal' would mean that it is not enough to extract the mineral from pit but should be despatched out of the leased area. In our view, word 'removal' would mean extracting the mineral from the pit's mouth after removal from the seam. This exact point has been considered by this Court in State of Orissa and Ors. Vs. Steel Authority of India Ltd. - (1998) 6 SCC 476, in which this Court has stated as follows:

"Another Division bench of the Orissa High Court in National Coal Development Corpn. case while considering the question whether the coal extracted by the workmen for their own domestic consumption is exigible to levy of royalty, accepting the contention of the Revenue held "that removal from the seam in the mine and extracting the same through the pit's mouth to the surface satisfy the requirement of Section 9 in order to give rise to liability for royalty." This view of the High Court found approval by this Court in National Coal case (C.A. No.807 of 1976 decided on 5.12.1991) and this Court held that the lessee in that case was liable to pay royalty for the coal supplied to its workmen for consumption."

In this view of the matter we find no substance in the matter. The appeal is dismissed accordingly."

Learned counsel for the parties very fairly stated that similar order may be passed in this appeal.

In view of the aforesaid, the appeal is allowed and the order passed by the writ court is set aside and the matter is remanded to the High Court to be disposed of in the light of the judgment rendered in Civil Appeal No.5908 of 2004. The High Court is requested to dispose of the writ petition as expeditiously as possible, preferably within six months. There shall be no order as to costs.

The appeal is disposed of accordingly.

Civil Appeal Nos.5651 and 5650 of 2005

The appeals are disposed of in view of the order passed in the Civil Appeal No.2363 of 2016. No order as to costs.

.....J.  
(Dipak Misra)

.....J.  
(Shiva Kirti Singh)

New Delhi;  
March 01, 2016.

ITEM NO.5

COURT NO.4

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 S

Petition(s) for Special Leave to Appeal (C) No.17382/2011

(From the judgment and order dated 24/11/2010 in CWJC No.1266/2000  
of the HIGH COURT OF JHARKHAND AT RANCHI)

EASTERN COALFIELDS LTD.

Petitioner(s)

VERSUS

STATE OF JHARKHAND AND ORS

Respondent(s)

(With office report)

WITH C.A. No.5651/2005

(With interim relief and office report)

C.A. No.5650/2005

(With appln.(s) for exemption from filing O.T. and interim relief  
and office report)

Date : 01/03/2016 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Mr. Mukul Rohatgi, A.G.  
Ms. Anjali Chauhan, Adv.  
Mr. Anip Sachthey, AOR

For Respondent(s) Mr. Amrendra Sharan, Sr. Adv.  
Mr. Krishnanand Pandeya, AOR  
Mr. Jayesh Gaurav, Adv.  
Mr. Amrendra Kr. Choubey, Adv.

Mr. Amrendra Sharan, Sr. Adv.  
Mr. Gopal Prasad, AOR  
Mr. Jayesh Gaurav, Adv.

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

S.L.P.(C) No.17382 of 2011

Leave granted.

The appeal is disposed of in terms of the signed order.

Civil Appeal Nos.5651 and 5650 of 2005

The appeals are disposed of in view of the order passed in the Civil Appeal No.2363 of 2016. No order as to costs.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)