

A KARANPURA DEVELOPMENT COMPANY LTD.

v.

UNION OF INDIA

DECEMBER 14, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

C *Coal Bearing Areas (Acquisition & Development) Act, 1957—
Leasehold right—Implementation of Bihar Land Reforms Act—Leasehold
right coming to an end—Lessee entitled to compensation—Quantification of
compensation—State Government directed to constitute a tribunal u/s 14(2)
for deciding quantum of compensation payable.*

D The appellant got 999 years lease to execute mining licence in 1946
but his lease hold came to an end due to the implementation of Land
Reforms Act, 1950. The question raised was whether by operation of
section 4(i) of the Coal Bearing Areas (Acquisition and Development) Act,
1957 and the notification issued u/s 7 thereof which was published on
24.8.1963, the appellant was entitled to the compensation. The High Court
held that since the appellant was only a lessee, he was not entitled for the
compensation. Hence this appeal.

E Allowing the appeal, this Court

F **HELD :** The lessee is entitled to compensation. The quantification
was required to be done by a separate proceeding. The state Government
was directed to constitute a tribunal in that behalf u/s 14(2) of the Coal
Bearing Areas Acquisition Development Act, 1957 which would go into the
question of quantification of compensation according to law. [685-G, 686-A]

G *Karanpura Development Company v. Union of India & Ors., [1988]
Suppl. SCC 488, relied on.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2774-75
of 1980.

H From the Judgment and Order dated 4.7.79 of the Patna High Court
in Misc.A. Nos. 216-17/71.

D.N. Gupta, Ms. Shipra G. Jain and R.A. Perumal for the Appellants. A

V.C. Mahajan, Praveen Swarup, A.K. Sharma and C.V.S. Rao for the Respondents.

The following Order of the Court was delivered :

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 the notification issued under Section 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 lessee the lessee is not entitled for the compensation. The controversy is no longer *res integra*. This Court in *Karanpura Development Company v. Union of India & Ors.*, 1988 Suppl. SCC 488 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 under Section 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. B C D E F

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

The appeal is accordingly allowed and the order of the High Court H

A 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 under Section 14(2) of the Act which would go into the question of quantification of compensation according to law and decide the same.

B The appeal is accordingly allowed. No costs.

R.A.

Appeal allowed.