

Messrs Bharat Coking Coal Limited

Vs

State of Bihar and Others

Civil Misc. Petition No. 4673 of 1987 in Civil Appeal No. 4521 of 1986

(A. P. Sen, B. C. Ray JJ)

10.11.1987

ORDER

1. This is an application made by the appellant for initiating proceedings for contempt against respondent 4 Ram Nath Singh and his son Vijendra Singh. It is alleged that despite the fact that this Court had on December 19, 1986 after hearing learned counsel for the parties granted special leave and also passed an order directing maintenance of status quo as in the High Court in the presence of learned counsel for respondent 4, three days after i.e. in December 22, 1986 respondent 4 Ram Nath Singh and his son Vijendra Singh filed a Criminal Miscellaneous Petition No. 4841/86(R) before the Ranchi Bench of the Patna High Court alleging inter alia that respondent 4 had the right to collect slurry, deliberately and wilfully suppressed from the High Court the fact that this Court had directed maintenance of status quo, and thereby obtained an order from the High Court dated January 3, 1987 in the said proceedings by which respondent 4 was allowed to transport briquettes from the area in question i.e. lands covered by the notification issued under Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 including the disputed plot No. 370, and had thus wilfully and flagrantly disobeyed and violated the status quo order of this Court.

2. After hearing learned counsel for the parties at quite some length, we were satisfied that the High Court was not justified in passing the impugned order. We accordingly by order dated September 23, 1987 vacated the aforesaid order of the High Court dated January 3, 1987 and also allowed the application made by the appellant for grant of a prohibitory order and restrained respondent 4 Ram Nath Singh and his son Vijendra Singh and their agents and servants from lifting sludge//slurry from the lands covered by the notification under Section 9 of the Act, in terms of the registered indenture of lease dated October 20, 1984 executed by the State Government in favour of respondent 4 and further directed that all operations carried on by them shall stop forthwith. There was a further direction made with regard to the withdrawal of the amounts deposited by respondent 4 and his son towards the price of slurry collected by them in pursuance of the order passed by the High Court dated January 15, 1985 on furnishing bank guarantee. At the conclusion of the hearing we were inclined to the view that there was no contempt. The reasons therefor follow.

3. The question whether respondent 4 Ram Nath Singh and his son Vijendra Singh are guilty of contumacious and wilful disregard of this Court's order must depend on the precise meaning of the words 'status quo as in the High Court'. There is not much of a controversy as to the scope and effect of the status quo order passed by this Court. Shri L. N. Sinha, learned counsel appearing for the appellant submitted that the words 'status quo as in the High Court' mean status quo as prevailing between the parties when the matter was pending in the High Court and not after the High Court had passed the impugned judgment and disposed of the writ petition. The learned counsel contends that same meaning must be given to these words as otherwise, the application for

grant of prohibitory order would be infructuous and the order passed by this Court meaningless. He placed emphasis on the word 'in' in the collocation of the words 'status quo as in the High Court' to define the scope and effect of the status quo order. According to him, the word 'in' must mean status quo while the matter was in the High Court; it was in session of the High Court till the moment before the delivery of the final judgment. Once the judgment had been delivered, the matter came to an end in the High Court. In substance, the contention is that the status quo was prevailing between the parties when the matter was pending in the High Court had to be maintained.

4. In reply Shri Kacker, learned counsel for respondent 4 Ram Nath Singh and his son Vijendra Singh submitted that the words 'status quo as in the High Court' must be interpreted to mean that the parties were relegated back to the position that obtained between them when the writ petition was still pending. Upon that basis he submitted that the contemnors were governed by the terms of the earlier order passed by the High Court dated January 15, 1985 permitting them to collect sludge/slurry from public land. It is ruled that the disputed plot No. 370 is such public land from which respondent 4 in terms of the registered indenture of lease dated October 20, 1984 executed by the State Government in his favour, was entitled to remove sludge/slurry from the lands covered by the lease. The learned counsel point out that although respondent 4 had been restrained by the High Court by its earlier order dated October 19, 1984 from removing sludge/slurry from the disputed plot of land, it had by the subsequent order dated January 15, 1985 permitted him to collect sludge/slurry on certain conditions. One of the conditions was that respondent 4 was required to deposit Rs. 10,000 in High Court and that had been done. He also drew our attention to clause (B) of that order which directed respondent 4 to deposit the price of slurry in court along with monthly returns and it is said that several lakhs of rupees are in deposit in the High Court on that account.

5. The expression 'status quo' is undoubtedly a term of ambiguity and at times gives rise to doubt and difficulty. According to the ordinary legal connotation, the term 'status quo' implies the existing state of things at any given point of time. The qualifying words 'as in the High Court' clearly limit the scope and effect of the status quo order. In the present case, the High Court determined only one question, namely, that slurry was not coal or mineral. It refrained from entering into the question of right or title of the parties on the ground that it involved investigation into disputed questions of facts. Therefore, apart from the abstract question that slurry was not coal or mineral, the impugned judgment does not adjudicate upon the rights of the parties. Viewed from that angle, it is obvious that status quo as in the High Court cannot mean anything else except status quo as existing when the matter was pending in the High Court before the judgment was delivered. Both the parties understood the scope and effect of the status quo order as meaning the state of things existing while the writ petition was still pending i.e. till the delivery of the judgment by the High Court. Respondent 4 moved the High Court in Cri. M.P. No. 4841/86(8) without impleading the appellant herein and obtained the impugned order from the High Court dated January 3, 1987 which we have vacated. The proper course for respondent 4 to have adopted was to have approached this Court to seek clarification, if he had any doubt as to the meaning and effect of the status quo order. We highly deprecate the conduct of respondent 4 for having approached the High Court and obtained the impugned order by suppressing the fact that this Court had passed the status quo order. Even so, strictly speaking, no case for contempt is made out on the plain terms of the status quo order. The parties were relegated back to the position that obtained while the writ petition was pending. They were therefore subject to the order passed by the High Court dated January 15, 1985. No other conclusion is possible looking to the terms of the status quo order.

6. We must add that there is no merit in the contention that the disputed plot No. 370 was public land and the State Government was entitled to grant a lease for removal and collection of

sludge/slurry despite the notification issued under Section 9 of the Act. It is quite clear upon the terms of the notification issued that the Central Government has made the requisite declaration under Section 9(1) of the Act for acquisition of the lands measuring 778.45 acres as specified in Schedule 'A' and it specifically includes the disputed plot No. 370 in village Sudamdih. The appellant in paragraph 11 of the application for contempt has averred that on the publication in the official gazette of such declaration by the Central Government under Section 9(1) of the Act, the aforesaid lands vest absolutely in it free from all encumbrances. The aforesaid declaration by the Central Government under Section 9(1) further specifies as enjoined by clause (b) of sub-section (2) thereof that the acquisition of the right in or over lands measuring 778.45 acres described in Schedule 'A' also carries with it the right to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands. It is pertinent to observe that respondent 4 Ram Nath Singh and his son Vijendra Singh have not in the counter-affidavit denied the aforesaid averment made in paragraph 11 except to say that they are a matter of record. It is plain upon the terms that the area in question i.e. plot No. 370 has been acquired under Section 9(1) of the Act together with the right of mine, quarry, bore, dig and search for, win, work and carry away the minerals thereon. It is idle to contend that the disputed plot No. 370 was open land. It is nothing but an afterthought and is ill-conceived.

7. It is unfortunate that the appellant rested itself content by obtaining the status quo order in terms in which it was passed. It should instead have for safeguarding its interests insisted upon a prohibitory order. In the meanwhile, we are informed that respondent 4 Ram Nath Singh and his son Vijendra Singh have been taking advantage of the qualified status quo order by removing sludge/slurry or briquettes worth about Rs. 50,000 per day. The appellant is at liberty to take recourse to such legal remedy as is available for the protection of its rights. We have tried to secure its interests to some extent by permitting withdrawal of the moneys deposited by respondent 4 Ram Nath Singh and his son Vijendra Singh in the High Court on furnishing bank guarantee.

8. CMP is disposed of accordingly.

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