

SUPREME COURT OF INDIA

Western Coalfields Ltd.

Vs.

Ballapur Collieries Company

C.A.No.4487 of 2009

(Abhay Manohar Sapre and Indu Malhotra,JJ.,)

11.12.2018

JUDGMENT

Abhay Manohar Sapre,J.,

1. These appeals are filed against the common final judgment and order dated 22.01.2007 passed by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in Civil Revision Application Nos. 801 & 803 of 2002 whereby the High Court allowed the revision petitions filed by respondent Nos.1-8 herein.

2. The proceedings in question which are subject matter of these appeals arise out of initiation of eviction proceedings by the appellants- Government of India Company against the respondents under the provisions of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 (hereinafter referred to as “the Act”) in relation to the suit property.

3. By impugned order, the High Court in the revision petitions filed by respondent Nos.1-8 herein under Section 9 of the Act against the order of the District Judge allowed the revision petitions and held that having regard to the nature of controversy and factual issues raised by the parties against each other in the eviction proceedings, the proper remedy of the appellants would be to file a civil suit against the respondents for their eviction from the suit properties rather than to take recourse to the summary remedy of eviction under the Act before the Estate Officer.

4. The appellants felt aggrieved by the said order and have filed these appeals by way of special leave in this Court.

5. Having heard the learned counsel for the parties and on perusal of the record of the case and the written submissions filed by the appellants, we are inclined to agree with the observations made by the High Court in the impugned order.

6. In our opinion, keeping in view the nature of the factual controversy raised by the parties before the Estate Officer, the proper remedy of the appellants would be to file civil suit

against the respondents for their eviction from the suit properties under the general law rather than to take recourse to the summary remedy of eviction provided under the Act.

7. We, therefore, do not express any opinion on the issues raised by the appellants in their written submissions and accordingly grant liberty to them to file a Civil Suit in the competent Court of jurisdiction against the respondents for their eviction in relation to the suit properties and raise all such pleas in the suit on merits.

8. We, however, make it clear that the respondents will not be allowed to raise a plea that the suit is barred by limitation.

9. Let the suit be filed within 6 months by the appellants against the respondents so as to enable the Civil Court to decide the same on merits in accordance with law.

10. With these observations, the appeals are accordingly disposed of.