

PETITIONER:
CENTRAL COALFIELDS LTD.

Vs.

RESPONDENT:
EKATE OF MADHYA PRADESH & ORS.

DATE OF JUDGMENT 13/12/1994

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
VENKATACHALA N. (J)

CITATION:
1995 SCC (2) 11 JT 1995 (1) 561
1995 SCALE (1) 13

ACT:

HEADNOTE:

JUDGMENT:
ORDER

1. Amendment of the cause title is allowed. Intervention application is dismissed.

2. This appeal by special leave arises from the order of the Division Bench of 562

the Madhya Pradesh High Court dated May 3, 1985 made in Misc.Pet. No. 1260/82 The appellant challenged in the above writ petition the directions dated 4.5.81, order dated 30.9.81 and a further order dated 9.6.82 passed by the second respondent Chairman of Special Areas Development Authority (for short, 'SADA'), Singrauli, in the District of Sidhi of M.P. directing the appellant under s.26 of the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973, (for short, 'Adhiniyam') to pull down the constructions of the office buildings staff-quarters etc. made by the appellant contrary to the provisions of the Adhiniyam. In the High Court, the controversy centered round the question as to whether the provisions of the Adhiniyam overlaps the field occupied by the provisions of the Coal Act, the Coal Bearing Areas (Acquisition and Development) Act and Mines and Minerals (Regulations and Development) Act, 1957 (for short, 'the Act'). The Division Bench held that these Acts have not occupied the field covered by the Adhiniyam and that, therefore, the Act is intra-vires the powers of the legislature. Accordingly, it dismissed the writ petition. Thus, this appeal by special leave.

3. It is contended by Shri Altaf Ahmed, learned Addl. Solicitor General, that when the mining operations are to be carried out under the aforesaid provisions, it would include the building operations under the Mineral Concession Rules, 1960, (for short, 'the Rules') made under the Act. Therefore, the operation of the Adhiniyam stands excluded. Dr. Ghatate, learned senior counsel for the second respondent, resisted the contention contending that

Adhiniyam regulates the development area under the Adhiniyam including the construction of buildings within the notified development plan in the zones; the appellant had constructed the buildings in Morwa and Jayanthi villages without obtaining prior permission from the SADA and that, therefore, the construction was in contravention of s.26 of the Adhiniyam. He, therefore, contends that the action was correctly taken and the Central Acts have no application as regards the building operations are concerned. The question, therefore, is as to what is the exact scope of the operation of the Adhiniyam.

4. Section 2(c) of the Adhiniyam defines "building", s.2(d) defines "building operations", s.2(f) defines "development", s.2(g) defines "development plan", s.2(i) defines "existing land use map" and s.2(j) defines "land". A conspectus of these definitions would indicate that the Adhiniyam intends to apply to carrying out of the development of the building, engineering, mining or other operations in, on, over or under any land or the making of any material change in any building or land or in the use of either and includes subdivision of any land within the zoning plan and the land use map made under the provisions of the Act.

5. Section 38 in Chapter VII empowers the State Government by a notification to establish Town and Country Development Authority which authority has been given power to develop the land.. In Chapter 111, it is empowered to make survey by the Director, preparation of regional plans, finalisation thereof under ss. 6 to 9. Section 10, thereafter, envisages that:

"Notwithstanding anything contained in any other law for the time being in force, on or after the date of publication of the draft regional plan, no person, authority, department of government or any other person shall change the use of the land
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for any purpose other than agriculture, or carry out any development in respect of any land contrary to the provisions of the draft plan, without the prior approval of the Director or an officer not below the rank of Deputy Director authorised by the Director in this behalf."

6. Chapter IV deals with preparation of the planning area and development plans. Sections 13 to 15 envisage making or preparation of developmental plans and existing land use maps. By publication under s.15(1), s.16 comes into operation which provides that:-

"(1) On the publication of the existing land use map under s. 15 ---

(a) no person shall institute or change the use of any land or carry out any development of land for any purpose other than that indicated in the existing land use map without the permission in writing of the Director. (Proviso and Clause (b) are not material for the purpose of this case, hence omitted.)

7. Under s.24, the State Government have kept the power with them to control and use of the land for overall development as per the plans of the Adhiniyam. Section 24(2) gives power to the State Government to remove difficulties in the implementation of the provisions of the Act. Section 25 postulates that "after coming into force of the development plan, the use and development of land shall conform to the provision of the development plan". In other

words, after it has come into force the development of the land shall be only in conformity with the developmental plan. In other words it is confined to building operations. Any constructions if had been made prior to the coming into force of development plan, it does not come within the prohibition contained under s.26. But thereafter, s.26 expressly prohibits constructions except under planned development of land with prior permission. For permission, when needed, an application in that behalf shall be made by any person under s.29 and by the State Government or the Central Government or any local authority or special authority under s.27. The Director has been given power to grant permission either unconditionally or conditionally or refuse the same under s.30. A right of appeal by the aggrieved person is given under s.31 to the appellate authority and a further revision to the State Government under s.32.

8. Thus, a reading of these provisions would clearly indicate that the Adhiniyam intends to operate within the zonal plans or the developed area plans and the land use map published under the Adhiniyam and construction of the building or development of the land shall be made in conformity with the provisions of the Adhiniyam, after the publication of the plans as required ultimately under s.25 of the Act. Any contravention thereof would be a contravention under s.26 of the Adhiniyam and the authority has the power to take appropriate action as required thereunder.

9. The question, therefore, emerges whether the construction made by the appellant is in conformity with the land use map prepared by the SADA and the zonal plan. In the reply given to the shown cause notice issued by the SADA, the appellant had admitted that SADA published the plan but initially it was contended that the plan was not extended to the two villages in

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which constructions had been carried out for which notice was given. It was also stated that the Collector had acquired the land of 130 acres and odd in village Punjrah for construction of office buildings staff quarters, workers' buildings etc. for which there was no notice issued by SADA. At the time of hearing, the contention that the map was not applicable to the two areas was given up. In the writ petition, no specific plea was taken that these two villages are within the mining areas and that the zonal declaration over laps the mining area. It is seen that under the Coal Act and the Coal Bearing Area (Acquisition and Development) Act, the mining area stands vested in the appellant and it is entitled to carry on mining operations under the Act and the Rules. The operation of Adhiniyam in relation to mining operation is void. Construction of office building, staff quarters, providing facilities for successful and effective mining operations, the welfare measures and providing right to residence and civic amenities to the staff and workmen are incidental or ancillary to the main purpose i.e. mining operation under the Act and the Rules. The Adhiniyam regulates building planned development and the developments incidental and ancillary thereto. Under these circumstances, the High Court has rightly held that the operation of Adhiniyam to the above extent does not trench upon the field of operation under provisions of the Central Acts. Both could harmoniously coexist and operate in the respective areas without colliding with each other. The provisions being construed in that backdrop and operational efficacy, we are of the considered view that

there is no overlapping of the operation of the Adhiniyam vis-a-vis the Central Acts.

10. The question emerges that when mining operations are carried on including actions relating to building operations incidental or integral to the mining operations, whether the Adhiniyam gets attracted? As stated earlier, excluding mining development, when the zonal plan was prepared and it was published for building operations, it would be a notice to the appellant and if such a zonal plan comes in conflict with the smooth and effective building operations in the mining area and would impede its operations which are regulated as ancillary or incidental and concomitant necessity under the provisions of the Act, the Rules and other Central Acts referred to hereinbefore, then it would always be open to the appellant either to bring it to the notice of the Director who is competent to make the plans and have it corrected or in case such an objection was taken but was not acceded to, it would be open to the appellant to have it challenged in an appropriate proceeding and have it declared that it runs contrary to and impinge upon the mining operations under the relevant provisions of the Act or Rules. Since on the facts of this case that question was not raised or controverted, we need not express any opinion in this behalf. If it were such a case that building operations of the appellant are within the mining area and the plan of the Adhiniyam is sought to be implemented in that area, it may be open to the appellant to raise such objections and the authorities would consider and dispose it of according to rules or approach the government to remove the difficulties and the State Govt. would do its best. Or it may be open to the appellant to have it challenged in an appropriate forum.

11. The appeal is dismissed accordingly but without costs.

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