A EAST INDIA COAL COMPANY LIMITED

v.

EAST BULLIAREE KENDWADIH COLLIERY CO. P. LIMITED AND OTHERS

B MARCH 3, 1987

[O. CHINNAPPA REDDY & V. KHALID, JJ.]

Coking Coal Mines (Nationalisation) Act, 1972: Sections 3, 4, 5, 12A, 23 & 24—'Owner'—Who is—Compensation—Claim for—Apportionment of share—Guidelines for apportionment indicated.

C

Respondent Nos. 1 and 2 were carrying on business as raising contractors and selling agents of Coking Coal of working coal mines. Pursuant to an agreement with the appellant-company appointing them as contractors to raise and sell coal and manufacture hard coke in D **respect of the unworked mines, they installed valuable machinery, utensils and coke ovens at a heavy cost.**

On the nationalisation of the coal mines by the Coking Coal Mines (Nationalisation) Act, 1972 all the mines vested in the Government. Respondent Nos. 1 and 2 filed a claim under s.26 of the Act before the E **4th respondent, the Commissioner of Payment, the statutory authority constituted under the Act and also moved the High Court by way of a writ petition contending that they were also owners of some of the mines in dispute and were entitled to their shares in the compensation and prayed for a direction that they be paid compensation at the market value for machinery, plant, equipment, building, stores etc. A Division** F **Bench of the High Court allowed the writ petition and held that respondent Nos. 1 and 2 were owners under the Act and directed respondent No. 4 to proceed with the claim according to law.**

Dismissing the appeal by the appellant, this Court,

G **HELD: 1. A combined reading of ss.4 and 5 of the Act makes it abundantly clear that the right, title, interest of the owners in relation to the mines and the coke oven plants prescribed in the First Schedule and the Second Schedule vests in the Central Government free from all encumbrances on the appointed day. [491H; 492A]**

H **2.1. The term 'owner' has been defined in section 3(a). It is clear**

from the definition that it takes within its ambit, occupier of the mine or any part thereof. The definition of the word 'owner' clearly indicates that there may be more than one 'owner' within the meaning of s.3(n) in relation to a mine. Each of them would be entitled to a portion of the amount shown in column 5 of the First Schedule. Raising contractors will also come within the ambit of the expression 'owner' in the Act. Therefore, they are also entitled to pro-rata distribution of the compensation deposited. [497G-H]

In the instant case, it cannot be disputed that respondent Nos. 1 and 2 admittedly a raising contractors, were in occupation of at least part of the mines for their operation and thus an occupier within the definition. They do not come within the exclusion clause in the definition section. Therefore, respondent Nos. 1 and 2 are 'owners' within the definition of section 3(n) of the Act. [490C-D]

Industrial Supplies Private Limited v. *Union of India*, [1980] 4 SCC 341, relied upon.

2.2. Sections 20(1) and 21(1) to (5) of the Act occurring in Chapter VI of the Act have deliberately avoided the expression 'the owners in the First Schedule' so as to achieve the object of the definition 'owner' in the Mines Act, 1952, which definition has been bodily borrowed by this Act. If the owner whose name is mentioned in column 4 is alone entitled to the compensation, then there was no need for the remaining sections in Chapter IV for apportionment of the amount. [494E-F]

3.1. Section 12-A makes the owner, who has employed the workers, liable for their wages and other dues and contains the procedure for making the claim, its proof and determination. The important fact to be noted regarding these dues is, as provided in sub-section(6) that the payment under this section shall have priority over all other debts whether secured or unsecured. This is made further clear by Section 23(2) also. [496C-D]

3(ii) Secured creditors come next in priority, and will have priority regarding their dues subject to the amounts payable to the workers. [496D]

3(iii) The amount of compensation payable under the Act is kept at the disposal of the Commissioner of Payment by the Central Government. Section 23 provides that every person who has a claim against the owner may prefer the same before the Commissioner within the stipulated period. [496E-F]

A 3(v) Section 23(4) to (9) lays down the procedure for entertaining and hearing of the claims against the owner. There is provision for giving a hearing to the claimants as well as to the owner before the Commissioner. The decision of the Commissioner is subject to appeal, the Appellate Court being the Principal Civil Court of original Civil Jurisdiction within whose local limits the relevant mine is situated. [496H; 497A-B]

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4. Section 25 makes provision for payment of amounts advanced by the Central Government for the management of the mine. It is stipulated therein that such amounts can be recovered either out of the income derived by the mine in the period during which the same remained under the management by the Central Government till the ownership vested in it or if the amount advanced is not so recovered C then the Central Government is enabled to make a claim before the Commissioner and this claim will have priority over the claim of all other unsecured creditors of the mine. [497C-D]

5. Section 26 deals with cases where doubt or dispute arises as to D the right of the person who is entitled to receive the compensation and provides that the Commissioner shall refer the claim to the court of competent jurisdiction. [497E-F]

6. The proper manner in which sections 23 & 24 have to be understood is that the admitted claims can be deducted from the E amount payable only when such claim related to the owner concerned. In other words, it is only the owner who has incurred the said debt that would be liable to pay the same. Care should be taken to see that the amounts of debts of one owner is not deducted from the compensation amount payable to the other owner who does not owe that money. [498D-E]

F 7(1) Section 25A deals with the distribution of the balance amount after meeting the liabilities. This has to be distributed, according to the right of each owner determined by the Commissioner and in case of dispute refer the dispute to a competent court. [499D-E]

7.2. The Commissioner will have to determine the share of the G compensation of the mine claimed by respondents 1 and 2 in accordance with section 26(2). [499H; 500A]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3118 of 1982.

H From the Judgment and Order dated 11.8.1982 of the Delhi High Court in Civil Writ Petition No. 112 of 1981.

S.N. Kackar and H.K. Puri for the Appellant. A

Shanti Bhushan, Mr. S.S. Jauhar, C.L. Sahu and M.L. Verma for the Respondents.

The Judgment of the Court was delivered by B

KHALID, J. The coal mines were nationalised by the Coking Coal Mines (Nationalisation) Act, 1972, (for short 'the Act'). Under this Act, the mines vested in the Government with effect from 1st May, 1972. The Act contains a schedule showing the various mines which come under the nationalisation scheme. The mines involved in this appeal are shown as serial Nos. 112 to 116 in the First Schedule to the Act. The Schedule, in addition shows, the location of the mines, C name and address of the owners of the mines and the amount of compensation. The owners' name in the fourth column of the mines involved in the appeal is shown as East India Coal Company Limited, the appellant before us and the total compensation as Rs. 93,23,500.

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Respondent nos. 1 and 2 were carrying on the business as raising contractors and selling agents of coking coal of working coal mines. According to them, Messrs Jardine Handerson Limited, who were the managing agents of the appellant-company, appointed them as contractors to raise and sell coal and manufacture hard coke in respect of the unworked mines, as per an agreement. It was alleged that they E were entitled under the agreement to instal plant, machinery and other equipment for efficient discharge of their functions as raising contractors. Pursuant to this agreement, they installed valuable machinery, utensils and coke ovens at a heavy cost. After nationalisation, they felt that there would be difficulty for getting apportionment from the appellant-company, of their due share in the compensation. F Therefore, they filed a claim under Section 26 of the Act before the 4th respondent, the Commissioner of Payment, Coking Coal Mines, a statutory authority constituted under the Act. They also moved the High Court by way of writ petition and contended that they were also owners of the mines under the Act and were entitled to their share in the compensation and prayed for a direction that they be paid compen- G sation at the market value for machinery, plant, equipment, building, stores etc. and in addition challenged the validity of the Act. The challenge against the validity of the Act became infructuous since the Act had been placed in the 9th Schedule. A Division Bench of the High Court accepted the plea of the writ petitioners, who are respondents 1 and 2 here, held that these two were owners under the Act, and H

A directed the 4th respondent to proceed with the claim according to law. It is against this Judgment that this appeal is filed, by special leave.

The appellants before us in their challenge against the judgment of the High Court dispute the finding that respondents 1 and 2 were B also owners under the Act and deny that they owned any part of the plant and machinery or equipment which had been taken over under the Nationalisation Act

The matter is now pending before the 4th respondent, a statutory authority under the Act. He has to decide about the claims and if necessary to refer the matter to a competent civil court, if any dispute C arises as to the right of any person to receive the whole or any part of the amount. We cannot go into the apportionment part of the claim. All that we have to do in this appeal is to resolve the dispute between the appellant and respondent Nos. 1 and 2, as to who is the owner of the mines under the Act. In other words, whether the appellants are D the owners of the mines to the exclusion of respondents 1 and 2 or not. Then we will have to indicate the manner in which the debts due by the owners have to be paid and which debt has priority over other debts. This we will have to do after examining the scheme of the Act with reference to some of the sections.

E The first question to be answered is as to who is the owner of the mine in question. The appellants contend that they have exclusive right over the compensation amount while respondents 1 and 2 claim that they have a share in it. We will refer to the sections brought to our notice to resolve this dispute. Sections 4, 5, 3(n), 10 and 12 can be usefully looked into for this purpose.

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Section 4(1) declares that the right, title, interest of the owners in relation to the mines shall stand transferred to the Central Government on the appointed day, free from all encumbrances. It reads thus:

> "4(1)—On the appointed day, the right, title and interest G of the owners in relation to the coking coal mines specified in the First Schedule shall stand transferred to, and shall vest absolutely in the Central Government, free from all encumbrances."

Similarly, Section 5 refers to the acquisition of rights of owners H of coke oven plants specified in the Second Schedule by the Central

Government by virtue of operation of this Section. Section 5 reads as follows: A

> "5. On the appointed day, the rights, title and interest of the owners of each of the coke oven plants specified in the Second Schedule being the coke oven plants which are situated in or about the coking coal mines specified in the B First Schedule, shall stand transferred to, and shall vest absolutely in the Central Government free from all encumbrances."

A combined reading of these two sections, therefore, makes it abundantly clear that the right, title, interest of the owners in relation to the mines and the coke oven plants prescribed in the First Schedule C and the Second Schedule vest in the Central Government, free from all encumbrances on the appointed day.

That takes us to the question as to who is the owner contemplated by these two sections. The term 'owner' has been defined in D Section 3(n). It reads as follows:

" "3(n) —'Owner'—

> (i) When used in relation to a mine, has the meaning assigned to it in the Mines Act, E 1952,
>
> (ii) When used in relation to a coke oven plant, means any person who is the immediate proprietor of lessee or occupier of the coke oven plant or any part thereof or is a contrac- F tor for the working of the coke oven plant of any part thereof."

For the purpose of the definition of the word 'owner' in relation to a mine, therefore, we have to examine the definition in the Mines Act, 1952. It reads as follows: G

> "2(1)(1)—'Owner' when used in relation to a mine, means any person who is the immediate proprietor of lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver such liquidator or receiver and in the H

A case of a mine owned by a company, the business whereof is being carried on by a managing agent, such managing agent; but does not include a person who merely received a royality, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or licence for the working thereof, or is merely the owner of the said B mine and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability."

C It is clear from the definition that it takes within its ambit 'occupier of the mine or any part thereof'. It cannot be disputed that respondents 1 and 2 here, admittedly a raising contractor, were in occupation of at least a part of the mine for their operation and thus an occupier within the definition. They do not come within the exclusion clause in the definition section. We have no hesitation, therefore, to D hold that respondents 1 and 2 is a owner within the defintion of section 3(n) of the Act. For this conclusion of ours, we are supported by a decision of this Court rendered by a bench of three Judges, to which one of us was a party, in the case of *Industrial Supplies Private Limited* v. *Union of India,* [1980] 4 SCC 341. Construing the indentical section, AP Sen, J, speaking for the bench held thus:

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"22. It was asserted that the petitioners were really not the managing contractors, but wrongly described as such in the agreement ..... The petitioners were conferred all the rights to work the mine for winning, getting and raising coal. The so-called remuneration payable to them was F virtually the price of coal supplied leaving to the owners a margin of profit ..... The petitioners having bound them-selves by the terms of the agreement, cannot be permitted to escape from the provisions of sub-section (1) of Section 4, as they come within the purview of the definition of 'owner' in section 3(n) of the Nationalisation Act.

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23. It is then argued, in the alternative, that the term 'owner' as defined in Section 3(n) of the Nationalisation Act read with Section 2(1) of the Mines Act, 1952, does not in any event include a raising contractor. It is not suggested that a raising contractor does not come within the description of a contractor in Section 2(1), but it is argued that the H

word 'includes' is not there. There was no need for Parliament to insert the word 'includes' because of the words 'as if he were'. Although the term 'owner' in common parlance, in its usual sense, connotes ownership of a mine, the term has to be understood in the legal sense, as defined.

24. Parliament, with due deliberation, in Section 3(n) adopted by incorporation the enlarged definition of owner in Section 2(1) of the Mines Act, 1952, to make the Nationalisation Act all embracing and fully effective. The definition is wide enought to include three categories of persons; (i) in relation to a mine, the person who is the immediate proprietor or a lessee or occupier of mine or any part thereof, (ii) in the case of a mine the business whereof is carried on by a liquidator or a receiver, such liquidator or receiver, and (iii) in the case of a mine owned by a company, the business whereof is carried on by a managing agent, such managing agent. Each is a separate and distinct category of persons and the concept of ownership does not come in. Then come the crucial last words; "but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability." The insertion of this clause is to make both the owner as well as the contractor equally liable for the due observance of the Act. It is needless to stress that the Mines Act, 1952, contains various provisions for the safety of the mines and the persons employed therein. In the case of a mine, the working whereof is being carried on by a raising contractor, he is primarily responsible to comply with the provisions of the Act. Though a contractor for the working of a mine or any part thereof is not an owner, he shall be subject to the provisions of the Act, in the like manner as if he were an owner, but not so as to exempt the owner from any liability."

The learned counsel for the appellants in his attempt to deny to respondents 1 and 2 any right in the compensation, sought support from the names shown in the first and second schedules which according to him clearly indicated who the owner of the coal mines was and made his submission as follows: The first schedule gives the location of the mine and the name of the owner. Section 4 refers to the owners specified in the First Schedule to be a person whose right, title and

A interest shall vest in the Central Government on the appointed day. Section 4(3) which is an amended section gives the Central Government powers to correct any error, omission or misdescription in relation to the particulars of a coking coal mine included in the First Schedule or the name and address of the owner of any such coking coal mine. Section 5 also refers to the owner of each of the coke oven plants B specified in the second Schedule. He wants to emphasise the fact that these sections by refering to owners mentioned in the schedule by name, seek to exclude those who are not mentioned therein.

Then he relies upon Section 10 of the Act for the same purpose. Section 10 reads as follows:

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> "10. Payment of amount to owners of coking coal mines: The owner of every coking coal mine or group of coking coal mines specified in the second column of the first schedule, shall be given by the Central Government, in cash and in the manner specified in section 21, for vesting D in it, under section 4, the right title and interest of the owner in relation to such coking coal mine or group of coking mines, an amount equal to the amount specified against it in the corresponding entry in the fifth column of the said Schedule."

E Here also, the section shows that the amount of compensation is to be paid to the owner of the coking coal mine specified in the second column of the First Schedule. Reliance was also placed on Section 12 for the same purpose. Section 12(1) and Section 12(2) also refer to the owner mentioned in the first schedule. It is better to quote Section 12(1) and 12(2):

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> "12(1)—In consideration of the retrospective operation of the provisions of section 4 and section 5, there shall be given by the Central Government in cash, to the owner of every coking coal mine specified in the First Schedule of the owner of every coke oven plant specified in the Second G Schedule, an amount equal to the amount which would have been, but for the provisions of the said section 4 or section 5, as the case may be, payable to such owner under the Coking Coal Mines (Emergency Provisions) Act, 1971, for the period commencing on the 1st day of May, 1972, and ending on the date of assent.

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(2) In addition to the amount specified in sub-section (1), there shall be given by the Central Government, in cash, to the owner of every coking coal mine specified in the First Schedule and the owner of every coke oven plant specified in the Second Schedule, simple interest at the rate of four per cent, per annum on the amount specified against such owner in the corresponding entry in the fifth column of the First Schedule or the Second Schedule, as the case may be, for the period commencing on the date of assent and ending on the date of payment of such amount to the Commissioner."

Emboldened with these submissions, specious though, and the sections he ventured to meet the difficulty pased by Section 20 of the Act which does not use the same phraseology as in Sections 4, 5, 10 and 12. Chapter VI deals with Commissioner of Payments. By Section 20(1), in this chapter, the Central Government is given power to appoint the Commissioner of Payments. It is necessary to read this Section, to see how it is worded.

"20(1) For the purpose of disbursing the amounts payable to the owner of each coking coal mine or coke over plant the Central Government shall appoint such person as it may think fit to be the Commissioner of Payments."

The phraseology used in this section catches one's eyes immediately. Here the words used are "the amounts payable to the owner of each coking coal mine or coke oven plant". The word 'owner' is not qualified with the expression "specified in the second column of the First Schedule". Section 21 in the same chapter is also useful for this discussion. It reads:

"21(1). The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, or payment to the owner or a coking coal mine or coke oven plant, a sum equal to the sum specified against the coking coal mine or coke oven plant, as the case may be, in the First Schedule or the Second Schedule together with the amount and interest, if any, referred to in section 12.

(2) In addition to the sum referred to in sub-section (1), the Central Government shall pay, in cash, to the Commissioner, such amount as may become due to the owner of a coking coal mine or coke oven plant in relation

A to the period during which the management of the coking coal mine or coke oven plant remained vested in the Central Government."

In Section 21(1) and 21(2) the owner of a coking coal mine or coke oven plant is not qualified with the expression "as specified in the First Schedule or the Second Schedule". Section 21(3) directs the B Commissioner appointed under the Act to open and operate an account in a scheduled bank in respect of each coking coal mine or coke oven plant. Section 21(4) stipulates that the Commissioner shall deposit the amount of compensation to the credit of the account of the coking coal mine or coke oven plant to which the payment relates, and section 21(5) states that interest accruing on the amount standing to C the credit of the account shall ensure to the benefit of the owner of coking coal mine or coke oven plant, as the case may be. It is necessary to note that in these sub-sections the owner is not specified by name as the owner specified in the second column of the First Schedule.

Absence of this specification in the above sections, thus, creates D difficulty for the appellants. Mr. Kacker tried to get out of this difficulty by contending that the 'expression owner specified in the First Schedule' must be read into these sections also though they are absent there. This attempt to deny any rights to the respondents 1 and 2, on such a plea, cannot, in our view, succeed. The sections occurring in Chapter VI have deliberately avoided the expression "the owners in E the First Schedule" so as to achieve the object of the definition 'owner' in the Mines Act, 1952, which definition has been bodily borrowed by this Act. We conclude this discussion holding, agreeing with the decision of this Court referred to above, that respondents 1 and 2 as occupiers are also owners. If the owner whose name is mentioned in column 4 is alone entitled to the compensation, then there was no need F for the remaining sections in Chapter VI, for apportionment of the amount after considering the various clauses.

What remains now is to lay down the guide lines to the Commissioner regarding the priorities in which the debts due by the mine owners have to be paid. Section 12-A deals with the workers' dues. It G reads:

"12-A— Workers dues to be paid out of the amount:

(1) Out of the amount payable—

H (a) under section 10 and section 12 to the owner of

every coking coal mine or group of coking coal mines;

(b) under section 11 and section 12 to the owner to every coke oven plant,

there shall be paid to every person employed by such owner a sum equal to the amount of arrears due, on the appointed day, to such employee,—

(i) in relation to a provident fund, pension fund; gratuity fund or any other fund established for the welfare of such employee; and

(ii) as wages.

(2) Every employee to whom the whole or any part of the arrears referred to in sub-section (1) is due shall file the proof of his claim to the Commissioner within such time, after the commencement of the Coking and Non-coking Coal mines (Nationalisation) Amendment Act, 1973, as the Commissioner may fix.

(3) The provisions of Section 23 shall, as for as may be, apply to the filing, admission or rejection of the proofs referred to in sub-section (2).

(4) The Commissioner shall, after the admission or rejection of the claims made under sub-section (2), determine the total amount of the arrears referred to in sub-section (1), and shall, after such determination, deduct, in the first instance, out of the amount paid to him under section 21, a sum equal to the total amount of such arrears.

(5) All sums deducted by the Commissioner under sub-section (4) shall, in accordance with such rules as may be made under this Act, be credited by the Commissioner to the relevant fund or be paid to the persons to whom such sums are due, and on such credit or payment, the liability of the owner of the coking coal mine or group of coking coal mines or coke even plant, as the case may be, in respect of the amounts of arrears

A due as aforesaid, shall stand discharged.

(6) The deduction made by the Commissioner under sub-section (4) shall have priority over all other debts, whether secured or unsecured.

B (7) Save as otherwise provided in the foregoing sub-sections, every secured debt due from the owner of a coking coal mine or group of coking coal mines or coke oven plant, as the case may be, shall have priority over all other debts and shall be paid in accordance with the rights and interests of the secured creditors."

C This section makes the owner, who has employed the workers, liable for their wages and other dues. This section contains the procedure for making the claim, its proof and determination. The important fact to be noted regarding these dues is, as provided in sub-section (6) that the payment under this section shall have priority over all other debts D whether secured or unsecured. This is made further clear by Section 23(2) also. Secured creditors come next in priority. They will have priority regarding their dues subject to the amounts payable to the workers.

Now coming to the other claims, we will briefly examine the E relevant sections. The amount of compensation payable under the Act is kept at the disposal of the Commissioner of Payment by the Central Government. Section 23 provides that every person who has a claim against the owner may prefer the same before the Commissioner within the stipulated period. We have already noted that section 23(2) provides for priority of payments for debts, in the nature of wages and F salary, amounts due towards contribution payable under the Provident Fund Act, amounts due under the Workmen's Compensation Act, amounts due to the employees from pension, gratuity. This section in addition speaks of sums due to the State Government as royalty, rent or dead rent. Section 23(3) provides that the amount payable under sub-section (2) mentioned above shall rank equally among themselves G and be paid in full and if the assets are not sufficient, the balance amount payable shall abate. This section should be read subject to Section 12A(6) and (7). The sums due to the State Government shall be subject to amounts payable to employees and secured creditors, because Section 23(2) speaks of payment of debts mentioned therein in priority to all other unsecured debts. Section 23(4) to (9) lays down the H procedure for entertaining and hearing of the claims against the

owner. There is provision for giving a hearing to the claimants as well as to the owner before the Commissioner. The decision of the Commissioner is subject to appeal, the Appellate Court being the Principal Civil Court of original Civil Jurisdiction within whose local limits the relevant mine is situated. Section 24 provides that where the total amount of claim admitted by the Commissioner does not exceed the amount of money payable to the owner under the Act then the amount of admitted claim shall be paid in full and the balance remaining shall be paid to the owner. It also provides that when the amount payable to the owner falls short to meet the full and total demand of the admitted claim then every such claim is to abate in equal proportion and shall be paid accordingly. Section 25 makes provision for payment of amounts advanced by the Central Government for the management of the mine. It is stipulated therein that such amounts can be recovered either out of the income derived by the mine in the period during which the same remained under the management by the Central Government till the ownership vested in it or if the amount advanced is not so recovered then the Central Government is enabled to make a claim before the Commissioner and this claim will have priority over the claim of all other unsecured creditors of the mine. In considering this claim, the Commissioner, will have to see to which owner advances were made, and after ascertaining this fact, make such owner liable for the advances.

Section 26 deals with cases where doubt or dispute arises as to the right of the person who is entitled to receive the compensation. The section provides that the Commissioner shall refer the claim to the Court of competent jurisdiction, which in relation to a coking coal mine or coke oven plant means the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction the coking coal mine or the coke oven plant is situated, in the event of there being a doubt or dispute as to the right of a person to receive whole or any part of the amount referred to in sections 10, 11 and 12.

After reading the scheme of the Act, it is now necessary to lay down further guide-lines to the Commissioner as to how the amount of compensation has to be apportioned. We have seen above that raising contractors will also come within the ambit of the expression 'owner' in the Act. Therefore, they are also entitled to pro rata distribution of the compensation deposited. Before the High Court, respondents 1 and 2 pleaded that out of the amount which is payable, all the claims admitted by the Commissioner under Section 23 cannot be deducted from the share of the compensation amount. In other words, the con-

A tention was that debts due by the company should not be taken into account when the amount due to the raising contractors is ascertained. That is, the share of the raising contractors in the amount of compensation should not be burdened with the debts of the original owner. It is submitted that there are huge claims against the company. If those debts were to be deducted from the gross amount specified in column 5 B of the First Schedule, it would work serious hardship to the raising contractors and would be doing violence to the scheme of the section and at the same time doing injustice to those who are not liable for the said debts. The definition of the word 'owner' clearly indicates that there may be more than one owner within the meaning of the section 2(n) in relation to a mine. Each of them would be entitled to a portion C of the amount shown in column 5 of the First Schedule. Claims admitted can be deducted only from the amount payable to that owner against whom the admitted claim relates. To read sections 23, and 24 to mean that all the owners must bear burden of the admitted claim irrespective of the fact as to who is liable under these claims, would be to do injustice to the section and doing violence to the language of the D section. The proper manner in which these sections have to be understood is that the admitted claims can be deducted from the amount payable only when such claim relates to the owner concerned. In other words, it is only the owner who has incurred the said debt that would be liable to pay the same. Care should be taken to see that the amounts of debts of one owner is not deducted from the compensation E amount payable to the other owner who does not owe that money.

The apprehension expressed by the learned counsel for respondents 1 and 2 that his clients should not be visited by adverse consequences by burdening their share of compensation with the company's debts is well founded. The section cannot be read to create such an F undesirable situation. Care should be taken in ascertaining the debts of each owner not to identify the debts, the burden of which will fall on which owner.

Then comes section 25-A which enables the Commissioner to make payment to the owners. It reads:

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"25-A Notice to owners of coking coal mines of coke oven plants and managing contractors, etc.

(1) After meeting the liabilities of persons whose claims have been admitted under this Act, the Commissioner H shall notify in such manner as he may think fit, the

amount of money available with him and specify in such notification a date within which the owners of the coking coal mines or coke oven plants, the managing contractors and the owners of any machinery, equipment or other property which was vested in the Central Government company under this Act and which does not belong to the owners of the coking coal mines or coke oven plants may apply to him for payment.

(2) Where any application is made under sub-section (1), the Commissioner shall, after satisfying himself as to the right of the applicant to receive the whole or any part of the amount, pay the amount to the person concerned and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount, the Commissioner shall deal with the application in the manner specified in sub-section (1) of Section 26."

This section deals with the distribution of the balance amount after meeting the liabilities. This has to be distributed according to the right of each owner determined by the Commissioner and in case of dispute refer the dispute to a competent court.

In this case, there are five mines. The appellants claim to be the exclusive owner of all the five mines. We have held that respondents 1 and 2 are also owners. But they do not claim right in all the mines. Under Section 26(3), newly inserted by the Coal Mines Nationalisation Laws (Amendment) Act, 1986, No. 57 of 1986, it is for the Commissioner to apportion the amount as indicated therein. The amended clause (3) reads as under:

"(3) Where the amount specified in the fifth column of the First Schedule is relatable to a group of coking coal mines, the Commissioner shall have power to apportion such amount among the owner of such group, and in making such apportionment, the Commissioner shall have regard to the highest annual production in the coking coal mine during the three years immediately preceding the appointed day."

The Commissioner will have to determine the share of the compensa-

A tion of the mine claimed by respondents 1 and 2 in accordance with this section.

We have indicated above, the guidelines to be adopted in apportioning the compensation. We find that the High Court was correct in its conclusions. The appeal has therefore to fail and accordingly is B dismissed with costs of Respondents 1 & 2.

M.L.A. Appeal dismissed.