



JUDGMENTS OF THE SUPREME COURT OF CANADA

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Citation: Westar Mining Ltd. (Re), [1993] 1 S.C.R. 890

Date: March 18, 1993

Docket: 23395

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Westar Mining Ltd. (Re), [1993] 1 S.C.R. 890

**United Mine Workers of America
International Union and United
Mine Workers of America, Local 7292**

Applicants

v.

Larry Bell, Robert Chase and Peter Dolezal

Respondents

and

Greenhills Workers' Association

Respondent

and

Three Hundred Non-Union Employees

Respondents

and between

Larry Bell, Robert Chase and Peter Dolezal

Applicants

v.

**United Mine Workers of America International
Union and United Mine Workers of America,
Local 7292**

Respondents

and

Greenhills Workers' Association

Respondents

and

Three Hundred Non-Union Employees

Respondents

Indexed as: Westar Mining Ltd. (Re)

File No.: 23395.

1993: March 1; 1993: March 18.

Present: Sopinka, Cory, McLachlin, Iacobucci and Major JJ.

Applications for leave to appeal and motion to quash the applications for leave to appeal

Appeal -- Leave to appeal -- Supreme Court of Canada -- Court of Appeal refusing leave to appeal on matters arising under Companies' Creditors Arrangement Act -- Whether leave to appeal to Supreme Court of Canada may be granted -- Companies' Creditors Arrangement Act, R.S.C., 1985, c. C-36, s. 15.

Cases Cited

Applied: *MacDonald v. City of Montreal*, [1986] 1 S.C.R. 460.

Statutes and Regulations Cited

Companies' Creditors Arrangement Act, R.S.C., 1985, c. C-36, s. 15.

MOTION to quash applications for leave to appeal to the Supreme Court of Canada from a refusal of the British Columbia Court of Appeal (1993), 38 A.C.W.S. (3d) 7 to grant leave to appeal from an order of the British Columbia Supreme Court (1992), 35 A.C.W.S. (3d) 148. Motion dismissed and applications for leave to appeal granted.

Jack M. Giles, Q.C., for Bell et al.

Gwen K. Randall, Q.C., for United Mine Workers of America International Union et al.

Frank G. Potts, for Greenhills Workers' Association.

//Sopinka J.//

The judgment of the Court was delivered by

SOPINKA J. -- The respondent Greenhills Workers' Association moved to quash the applications for leave to appeal brought by the applicants on the ground that this Court had no jurisdiction to grant leave to appeal from the refusal of a provincial appellate court to grant leave to appeal to that court on a matter arising under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, C-36 ("CCAA"). We are all of the view that this Court does have jurisdiction.

Section 15(1) CCAA provides that an appeal from a provincial court of highest resort lies to this Court upon leave being granted by this Court and s. 15(2) further states that this Court has "jurisdiction to hear and to decide according to its ordinary procedure any appeal under subsection (1)". In the absence of any restrictions placed by the CCAA upon the jurisdiction of this Court to grant leave to appeal, the reasoning in *MacDonald v. City of Montreal*, [1986] 1 S.C.R. 460, applies such that this Court has a discretion to grant leave to appeal from a decision of a provincial appellate court refusing leave to appeal

to that court and to hear the appeal on the merits.

The motion to quash the applications for leave to appeal is dismissed and the applications for leave to appeal are granted.

Judgment accordingly.

Solicitors for Bell et al.: Farris, Vaughan, Wills & Murphy, Vancouver.

Solicitors for United Mine Workers of America International Union et al.: McCarthy Tétrault, Calgary.

Solicitors for Greenhills Workers' Association: Lindsay Kenney, Vancouver.

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