

Party Name : SABITA BHOWMIK (DEB) & ORS Vs UNION OF INDIA & ORS

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR. JUSTICE S.TALAPATRA

In this case, the claim of the petitioner was that the deceased was done to death by the officials of the BSF and therefore she is entitled to compensation.

This Court vide order dated 25.09.2013 had directed the learned District Judge, West Tripura to conduct an inquiry in the matter. The learned District Judge has conducted the inquiry and submitted his report and in para 14 held as follows:-

"14. In view of the above, the version given by the B.S.F. personnel leading to the unfortunate death of Swapan Kumar Deb seems more acceptable than the version put forward from the side of the petitioners. Accordingly, it is concluded that Mangi Lal had to open fire that day under compelling circumstance when he was unable to release himself from the clutch of those four persons including Swapan Kumar Deb who had fell him on the ground. The point is decided accordingly

With the aforesaid observation, I am sending the Inquiry Report to the Hon'ble High Court for kind consideration."

We asked Mr. S. Deb, learned senior counsel whether he would like to file a separate suit because we cannot sit in appeal over the findings given in the inquiry report. This Court cannot record evidence. We leave it to the learned counsel for the petitioner to decide whether he wants to file a separate suit or he wants to argue only on the basis of the inquiry report.

Mr. Deb, learned senior counsel states that he may be permitted to withdraw the writ petition with liberty reserved to approach the civil Court.

The prayer is allowed.

It is made clear that if the petitioner approaches the civil court, the report will not bind the Court and the Court will decide the matter on the basis of evidence lead before it.

The petitioner shall obviously be entitled to take advantage of Section 14 of the Limitation Act to exclude the period spent in this Court.

The writ petition is disposed of.