

Party Name : BICHITRA DEBNATH & 8 ORS Vs DISTRICT MAGISTRATE & COLLECTOR & 2 ORS

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned counsel Mr. P. K. Pal for the petitioners; learned G.A. Mr. T. Dutta Majumder for the respondent Nos. 1 and 2 and learned Sr. Counsel Mr. A. K. Bhowmik for the respondent No.3.

By judgment and award dated 16.01.1999, passed in T.S. MAC 166 of 1991, an award of Rs.2,59,000/- with interest was made in favour of the petitioners. Respondent No.3 was supposed to satisfy the award but since respondent No.3 failed to satisfy the award in terms of the judgment and award, a certificate was issued by the tribunal under Section 174 of the Motor Vehicles Act, 1988 and the certificate was sent to the respondent No.1 for realization of the amount mentioned in the certificate. In due course respondent No.1 sent the certificate to respondent No.2 for realization of the amount.

It is the allegation of the petitioners that respondent No.3 did not yet satisfy the award and that respondent Nos. 1 and 2 are sitting over the certificate and did not yet execute it. The certificate was sent in the year 2009. Sufficient time elapsed in the meantime. The respondent Nos. 1 and 2 would execute the certificate in the meantime and would realize the amount and arrange payment to the petitioners.

Respondent Nos. 1 and 2 by filing counter affidavit submitted that respondent No.2 initiated action after receipt of the certificate from respondent No.1 but could not trace out the judgment debtor i.e. respondent No.3 for a considerable period of time and when the judgment debtor was traced out, the respondent No.2 issued notice in Form No.25 and the respondents are expecting that the certificate will be executed within a short time. It is also contended by the official respondents that there was some delay in executing the certificate, which was not intentional and that the certificate officers since were engaged with other administrative works, they could not execute the same in the meantime.

Respondent No.3 also submitted a counter affidavit stating that the writ petition is not maintainable since the certificate case is in the process.

Learned G.A. has submitted that the extreme step which the respondents can take to execute the certificate has already been taken and the O.C. of East Agartala P.S. has been asked to execute the distress warrant and so it is expected that the warrant will be executed soon.

Considering the submission of learned counsel of both side, the writ petition is disposed of with a direction to the respondent Nos. 1 and 2 to execute the certificate within 6(six) months from today in its entirety so that the awarded amount is realized from the judgment debtor and is paid to the petitioners as per award.

The writ petition accordingly stands disposed of.

Copy of the order be given to learned counsel both side.