

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9925 of 2016

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1. Union of India through General Manager, E. C. Railway, Hajipur

.... Petitioner/s

Versus

1. Guddiya Khatoon Wife of Late Mohammad Kamaluddin resident of Mohalla -
Masaurhi, P.S. and P.O. Masaurhi, District - Patna, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.K. Sinha, Sr. Advocate

Mr. Abhinay Ray, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 11-07-2016

Heard Mr. D.K. Sinha, in support of the writ application filed under Article 226 of the Constitution of Indian to assail the order dated 28.04.2016 passed by the Member (Judicial) Railway Claims Tribunal, Patna (for short "The Tribunal") in Execution No. 00009/15 arising out of O.A. No. 222 of 2005.

Several submissions have been advanced by him to question the manner and the procedure in which the Tribunal proceeded in the execution proceeding inasmuch as directing the officers of the respondent-Union of India to appear in person. The Tribunal further proposed to pass order fixing the responsibility on the officer(s) who delayed execution/implementation of the order passed by the Tribunal in O.A. No. 222 of 2005.

On going through the impugned order, it appears the Tribunal fixed 11.05.2016 as the next date in the proceeding, enabling the opposite party (writ petitioner herein) to produce relevant documents towards compliance of the order passed in O.A. No. 222 of 2005.

Mr. Sinha has produced the copy of the order passed by the Tribunal on 11.05.2016, wherefrom it appears that an affidavit was filed showing implementation of the order by disbursing the amount in favour of the claimants. The affidavit filed by the officer(s) further stated that the Railways are making inquiries to fix responsibility of the officer(s)/personnel who delayed execution of the order of the Tribunal.

While assailing the impugned order Mr. Sinha has relied on an order passed by a Division Bench of this Court in C.W.J.C. No. 3041 of 2015 (Annexure-4), wherein the Court, while allowing the writ application, observed as under in paragraph 6 & 7:

“6. We take serious exception to the manner in which the Tribunal conducted the proceedings in the O.A. The very purpose of constituting a Tribunal was to ensure that the claims of the claimants are disposed of at the earliest. By any standard, a period of ten years during which the O.A. was pending, cannot be justified. The Tribunal was expected to speed up the disposal by making extra efforts.

7. In case the appellant, who figured as respondent in the Original Application, did not file any counter or any satisfactory

reply, the Tribunal could have passed the order on merits and disposed of the O.A. itself. Neither any evidence was recorded nor any further steps were taken. It has passed the order under appeal which does not at all fit into the mechanism of adjudication of the disputes by the Tribunal. Ignoring the fact that he is only heading a Tribunal, the Presiding Officer appears to have felt that he is the ultimate Supervisory Authority vested with the powers to pass any order of his choice. We do not approve such an exercise.”

In the particular case, the writ petitioner has already complied with the order passed by the Tribunal on 28.04.2016. Only an affidavit is required by the Tribunal regarding full compliance of the order from the opposite party (writ petitioner herein).

In view of the subsequent events having taken place and noticed hereinabove, in my view, the writ application deserves to be disposed of as infructuous.

(Kishore Kumar Mandal, J)

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