

None for Petitioner.
Mr. Vaibhav D. Kadam for Respondents.

CORAM : R. G. KETKAR, J.
DATE : JULY 12, 2017

None appears for the petitioner. Heard Mr. Kadam, learned Counsel for respondents.

2. Perused the earlier orders. The matter was heard on 19.06.2017 and was kept 'for dismissal' on 03.07.2017. On 03.07.2017, learned Counsel appearing for the parties submitted that parties are filing consent terms and accordingly matter was adjourned to 05.07.2017. Respondents had earlier filed Claim Petition under the Employees' Compensation Act, 1923 (for short 'Act'). By order dated 28.03.2006, compensation of Rs.3,11,970/- with interest @ 10% p.a. with effect from 06.12.2001 till its realization was granted. Further penalty of Rs.25,000/- was also imposed.

3. As the petitioner did not pay the amount, respondents filed Recovery Application under Section 31 of the Act. By the impugned order, the Commissioner for Workmen's Compensation and the Judge, Labour Court, Nashik allowed the Recovery Application and issued recovery certificate to the Collector, Nashik for recovering compensation amount of Rs.3,11,970/- with interest @ 10% p.a. from

06.12.2001 till its realization as also penalty of Rs.25,000/- from the petitioner as arrears of land revenue. It is against this order, present Petition is instituted.

4. On 05.07.2017, consent terms between the petitioner and respondents No.1 to 3 were sought to be tendered in this Court. By the consent terms, parties agreed to settle the dispute subject to the petitioner paying amount of Rs.90,000/- by cheque and cash amount of Rs.10,000/-. Respondents also agreed to accept this amount as full and final settlement of claim. After perusing the consent terms, I was satisfied that the claim of the respondents is not adjusted by lawful agreement or compromise in writing and signed by the parties. I, therefore, called upon the respondents as to why they agreed for compromise. The only answer that was given was that it will not be possible for the respondents to recover the amount in excess of Rs.1,00,000/-. I did not accept this explanation as recovery certificate is already issued on 10.11.2016. That apart, on account of death of Sanjay Gangadhar Dhivar in the course of employment, claim Petition was filed under the Act and the same was allowed on 28.03.2006. The petitioner is directed to pay compensation of Rs.3,11,970/- with interest @ 10% p.a. with effect from 06.12.2001 till its realization. The said order was not challenged by the petitioner and thus had attained finality. In view thereof, I declined to accept the compromise terms and dispose of the Petition in accordance with the consent terms and kept the matter today under the caption 'for dismissal'. However, none appears for the petitioner.

5. Having regard to the fact that petitioner did not challenge the order dated 28.03.2006 by which compensation @ Rs.3,11,970/- was awarded together with interest @ 10% p.a. from 06.12.2001 till its realization on account of death of Sanjay Gangadhar Dhivar, I do not find that the impugned order suffers from any error. The order dated

28.03.2006 had attained finality. In view thereof, no case is made out for invocation of powers under Article 227 of the Constitution of India, more so when Tahsildar, Yeola had already issued recovery certificate on 10.11.2016. Hence, Petition fails and the same is dismissed. Tahsildar will now proceed in pursuance of certificate dated 10.11.2016 for recovery of amount of compensation as land revenue. All the parties, including the Tahsildar, Yeola, to act upon the authenticated copy of this order. Tahsildar, Yeola shall submit compliance report to this Court on or before 31.08.2017. Order accordingly.

(R. G. KETKAR, J.)

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