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23.02.2022
Court No. 23
d.g.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 110 of 2022

Ashoke Kumar Roy & Anr.
Vs.
Eastern Coalfields Limited & Ors.

Mr. Rananeesh Guha Thakurta,
Ms. Senjuti Sengupta.
... for the petitioners

Mr. Tapas Kumar Bhattacharya,
Mr. Aviroop Bhattacharya.
... for the respondent no. 5

Ms. Sanchita Barman Roy.
... for the Eastern Coalfields Ltd.

Affidavit-of-service filed in Court today is
taken on record.

The petitioners are respectively father and
mother of Angshuman Ray, an employee of Eastern
Coalfields Limited (in short "E.C.L.") who died in
harness on 3rd April, 2020. The respondent no. 5 is
the wife of Angshuman Ray, since deceased. The
petitioners say that after the death of Angshuman
Ray, the petitioner no. 2 as the mother is entitled to
a share in the estate of her son Angshuman Ray.
The retiral benefits which include Leave
Encashment, Life Coverage Scheme (LCS), Medical
Allowances, Executive Death Benefit, NCP,
Performance Related Pay (PRP), Coal Mines Provident
Fund and Pension, according to the petitioners form
part of the estate. The respondent no. 5 as a female
dependent of late Angshuman Ray has been given

compassionate employment by Eastern Coalfields Limited (in short "E.C.L."), the employer. The petitioners had given no objection in favour of their daughter-in-law, the respondent no. 5 for getting the compassionate employment. The petitioners say that so far as the gratuity amount is concerned, the petitioner no. 2 has received 50 per cent of the same being her share out of such money as Angshuman Ray was issueless at the time of death and his estate devolves in equal share to his wife and mother. The petitioners say that so far as the Coal Mines Provident Fund, an aggregate sum of Rs.20,32,291/- has been disbursed of E.C.L. in favour of the nominee of Angshuman Ray being the respondent no. 5.

On behalf of E.C.L., it is submitted that they are bound by the declaration given by the employee in his service book and in the form of PS-3. Since the respondent no. 5 was the nominee, E.C.L. had given the said sum to the respondent no. 5. The respondent no, 5 is represented. The advocate representing the said respondent on instructions submits that the respondent no. 5 has received the said sum of Rs.20,32,291/-.

The petitioners say that although the respondent no. 5 was obliged to pass on the 50 per cent of the said amount but has not done so. The petitioners say that it was the obligation of E.C.L. to divide the amount in equal share and give 50 per cent of the said sum of Rs.20,32,291/- to the

petitioner no. 2 directly and the rest to respondent no. 5.

The respondent no. 5 says that there are inter se dispute between the petitioners on one hand and the respondent no. 5 on the other.

It is the case of the respondent no. 5 that the entire money in a bank account lying in the name of Angshuman Ray with State Bank of India which is approximately about 18 lakhs have been taken away by the petitioners depriving the respondent no. 5. The respondent no. 5 has already filed civil suit in that regard before the Court of Learned Civil Judge (Junior Division), 1st Court, Asansol, Paschim Bardhaman being Title Suit No. 641 of 2021. An ad interim order of injunction has been passed in the said title suit on 17th September, 2021. The respondent no. 5 further submits that the petitioners have made an application under the provisions of Section 125 of the Code of Criminal Procedure, 1973 (in short "Cr.P.C.") before the Chief Judicial Magistrate, Paschim Bardhaman. The orders passed by the learned Chief Judicial Magistrate are annexed at pages 69 to 75.

After hearing the parties and considering the materials on record, I find that the disputes are civil in nature in as much as the respondent no. 5 as a nominee has collected the provident fund money and have not disbursed the same amongst the beneficiaries. The cause of action, if any, of the petitioners against the respondent no. 5 with regard

to non-disbursal of the provident fund amount cannot come within the service domain under Article 226 of the Constitution of India before this Court. There is no dereliction of obligation from the side of E.C.L. as they have acted in terms of the declaration by the employee in his service record. It is not a case that E.C.L. is withholding the money. E.C.L. has duly paid it to the nominee. The obligation of E.C.L. stood discharged at the time when such payment was made to the nominee.

In the aforesaid facts and circumstances, the writ petition is disposed by relegating the parties to appropriate forum having jurisdiction over the issues as per law. The parties will be at free to agitate the issues, if any, before the appropriate forum on the self-same cause although the writ petition stands dismissed.

Since I have not called for any affidavit, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)