

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. NO.2104 OF 1994

Sashanka Sekhar Mishra & anr.

Petitioners

Mr.S.Mishra, Adv.

-versus-

***Certificate Officer (Sadar), Cuttack
& ors.***

Opposite Party(s)

Mr.S.Ghosh, AGA for O.Ps.1 & 2

Mr.A.K.Mishra, Adv. for O.p.3

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
27.10.2022**

Order No.

23. 1. Heard learned counsel for the Parties.
2. The Writ Application involves the following prayer :-
- “It is, therefore, prayed that your Lordships may graciously be pleased to admit this application, call for the records of the court below, after hearing the counsel for the parties, issue notice in the nature of Certiorari, calling upon the Opp.Parties to show cause as to why the very initiation of the certificate proceeding against the petitioners and the orders impugned vide Annexure-8, 9 and 13 shall not be quashed and in the event the Opp.Parties fail to show cause or show insufficient cause, the said rule be made absolute and the certificate proceeding No.3/1988 and the orders, vide Annexure-8, 9 and 13 be quashed and any other order(s), writ(s), direction(s) be passed as deemed fit and proper.”
3. Main dispute involving the Writ Application appears to be the impugned orders under Annexure-8, 9 & 13, which are all under the provision of the O.P.D.R. Act. From the order-sheet involving

the Writ Application, it appears that there have been several hearings of the matter and at one stage in course of hearing on 9.5.1995, on O.P.3 filing a Miscellaneous Proceeding while praying to restrain release of entitlement of the Petitioners a sum of Rs.84,000/- by the Door Darshan of India towards balance payment clearly disclosed that Petitioners herein were in outstanding also to the tune of Rs.84,000/- to be recovered to O.P.3. Hearing the respective counsel, the Division Bench of this Court in disposal of M.C. No.2260/95 has come to observe as follows :-

“Misc. Case No.2260 of 1995

This is an application by the opposite parties to injunct the petitioner from withdrawing a sum of Rs.84,000/- in respect of which a certificate proceeding has been initiated. The petitioner is entitled to receive the amount which has been deposited from the Director General of Doordarshan. Mr.Mishra appearing for the petitioner states that the amount due to the Corporation is only to the extent of Rs.39,000/-. But since the certificate proceeding is pending, we direct that until disposal of the writ petition the petitioner shall not withdraw the sum of Rs.84,000/- from out of its entitlement which the petitioner is entitled to receive from the Director General of Doordarshan and the Director General of Doordarshan is also injected not to hand over the sum of Rs.84,000/- until final disposal of the writ petition. After the writ petition is disposed of and the amount is decided, appropriate orders can be passed in respect of that.”

4. It is entering into further hearing today, in course of hearing, Mr.A.K.Mishra, learned counsel for the Film Development Corporation of Orissa, O.P.3 reiterated that on the date of this order,

the total due to O.P.3 from the Petitioners was Rs.84,000/-. Pleadings through Misc. Case No.2260/95 clearly disclosed that the Petitioners were to get a sum of Rs.84,000/- from Door Darshan, India on account of some previous entitlement. It is on the release of such amount, the above Misc. Case came to be filed by O.P.3 making an attempt to block this amount so as to protect the interest of O.P.3 involving their whole entitlement. In the aforesaid order, the whole amount was directed to be retained by the Door Darshan of India requiring to be released on the ultimate outcome in the Writ Petition.

5. It is unfortunate to note that this Court enjoined the Director General of Door Darshan from releasing of Rs.84,000/- in favour of the Petitioners by its order dated 9.5.1995 on allowing the application of O.P.3 but there was no endeavor by either Party on the mode of retention of such huge amount in 1995. It appears, the whole amount might be lying in idle account of the Door Darshan.

6. Mr.S.Mishra, learned counsel for the Petitioners submits, looking to the long drawn dispute between the Parties stretching to next generation in the family, the Petitioners' have no objection if the retained amount since matches whole outstanding of O.P.3 in the year 1995 be released in favour of O.P.3. Mr.A.K.Mishra, learned

counsel for O.P.3, however submits, his Clients should be entitled to some interest over and above the outstanding of Rs.84,000/- while also admitting that though the whole amount is retained by the Door Darshan under the direction of this Court and in an attempt by this O.P. but there is no endeavor to keep such huge amount in any interest oriented scheme.

7. Taking into consideration the admitted position that O.P.3 was to be entitled to the extent of Rs.84,000/- from the Petitioners has been blocked only at the instance of O.P.3 without securing an order on mode of deposit in the disposal of the above Misc. Case, this Court finds, there is no room for entitlement of interest on such amount by either Party. It is made clear, in the event the Door Darshan has voluntarily kept the amount in Fixed Deposit, then O.P.3 may be entitled to interest accrued @ 5% all through and the balance interest ought to be released in favour of the Petitioner. Door Darshan since not a Party to the present litigation, there cannot be any ascertainment on the interest aspect. The Petitioners since showing interest in discharge of whole amount of Rs.84,000/- retained by Door Darshan by way of adjustment of the amount towards the loan due to the O.P.3 further also keeping in view the difficulty in the long pendency of the proceeding, this Court while

allowing the Writ Application partially observes, whole entitlement of O.P.3 at Rs.84,000/- being blocked at the end of the Director General of Door Darshan under the direction of this Court be released in favour of O.P.3 by way of Demand Draft in favour of the Film Development Corporation of Orissa Ltd., O.P.3 at least within a period of seven days of service of copy of this order on it by O.P.3. This Court further observes, if the Director General of Door Darshan on its own has kept the amount of Rs.84,000/- in any interest bearing account, interest accrued shall also be released at least @ 5% all through in favour of O.P.3 and the balance interest, if any, be released by way of Demand Draft in favour of the Petitioner No.1 while also releasing the principal in favour of O.P.3. Order on interest aspect will however be worked out, provided the Door Darshan has kept the amount in Fixed Deposit and the amount involved has earned interest.

8. For the clear direction herein, it is clarified, there is no further due to O.P.3 from the Petitioners and as a consequence of this order, the certificate proceeding between the Parties shall be deemed to be closed on production of copy of this order before the Competent Authority being forwarded by the Advocate General Office.

9. The Writ Application thus stands disposed of.
10. Issue urgent certified copy.
11. A free copy of this order be supplied to Mr.S.Ghosh, learned A.G.A. for communication to the Certificate Officer involved for information.

(Biswanath Rath)
Judge

M.K.Rout

