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FMA 456 of 2022

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IA No.: CAN 1 of 2018 (Old No.: CAN 6251 of 2018)

Food Corporation of India & Another
– *Versus* –
Chhaya Rani Baidya & Others

Mr. Kamal Kumar Chattopadhyay
...for the Appellants.
Mr. Victor Chatterjee,
Mr. S. Chakraborty
... for the Respondents.

The present appeal has been preferred challenging the order dated 12th June, 2018 passed in a writ petition, being WP No.5060(W) of 2018. The writ petition was preferred by the legal heirs of one Kartick Chandra Baidya (in short, Kartick), who retired from his services under the Food Corporation of India (in short, FCI) on 31st May, 2011, praying for issuance of necessary directions upon FCI and its functionary to release the title deed, which was mortgaged in favour of FCI on 27th August, 1996 by executing a mortgage deed no.482 of 1996 and to execute the reconveyance deed in favour of the writ petitioners. The title deed was withheld on a purported plea that Kartick, who had expired on 10th January, 2018, had not repaid an amount of Rs.3,00,000/- and an amount of Rs.1,500/- which were imposed as penalty in two separate disciplinary proceedings.

The learned Single Judge upon hearing the parties was pleased to allow the petitioners' prayer upon arriving at a finding that nothing was due and payable by the deceased employee and as such, there was no reason to withhold the title deed. Aggrieved by the said order the FCI and its functionary had preferred the present appeal.

Mr. Chattopadhyay, learned advocate appearing for the appellants submits that during the service tenure of Kartick, two disciplinary proceedings were initiated against him and two orders of penalty to the tune of Rs.3,00,000/- and Rs.1,500/- respectively were passed against Kartick. The statutory appeals preferred against the same were also disposed of by confirming the penalty orders. The said amount of Rs.3,01,500/- was not paid back to FCI by Kartick. In view thereof, FCI rightly withheld the title deed and refused to execute reconveyance deed.

Such argument, as advanced by Mr. Chattopadhyay, in our opinion, is a misconceived one since for non-refund of the said amount of Rs.3,01,500/-, FCI authorities could not have withheld the title deed, when admittedly the house building loan, as availed by Kartick, was repaid to FCI along with interest.

Mr. Chatterjee, learned advocate appearing for the respondents, being the legal heirs of Kartick, submits that Kartick retired on 31st May, 2011. The employer-employee relationship of Kartick with the FCI stood ceased on and from the said date. All terminal benefits including gratuity

were disbursed in favour of Kartick. The house-building loan of Rs.2,50,000/- had also been repaid by Kartick. The interest pertaining to the said loan had also been deducted by the authorities while disbursing the gratuity amount, as would be explicit from the document, as annexed at page 32 of the stay application, being CAN 6251 of 2018.

Indisputably, Kartick was allowed to retire and all his terminal benefits were disbursed. Initially the gratuity amount of Kartick was withheld for which he had to approach this Court earlier by filing a writ petition and pursuant to an order passed in the said writ petition on 17th August, 2012, the General Manager, FCI passed an order on 9th October, 2012 directing payment of the entire gratuity amount to the employee concerned along with interest. The contents of the said order would reveal that the plea, as urged by Mr. Chattopadhyay before us, was also taken into consideration by the concerned officer while disposing of the representation submitted by Kartick.

In the said conspectus, the order impugned, in our opinion, does not suffer from any infirmity warranting interference in the present appeal.

Accordingly, the appeal and the stay application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)