

02.01.2023
Item No.9
Ct. No.7
CHC
(disposed of)

C.O. 2360 of 2022

Sri Shyamapada Bid
...
Vs.
The Union of India & ors.

Mr. Arup Krishna Das,
Mr. Wasim Raj Sarder
...for the petitioner

Orders impugned are relatable to rejection of an application for waiving deficit court fees, for drawing up the decree in a Money Suit No.08 of 2019 of learned Civil Judge (Senior Division), 2nd Court, at Asansol.

Admittedly, there has been an *ex parte* decree granted in the referred Money Suit.

Adverting to paragraph-12 of the copy of the plaint, learned advocate submits that the required court fees need not be deposited by the petitioner, as the suit was filed taking permission of the concerned District Legal Services Authority.

The attention of the Court is drawn to order No.2, dated 13th June, 2017, passed by the court below

making exemption from filing court fees, as to the institution of the suit.

There is sufficient reflection in the body of the judgement dated 13th October, 2020, passed by the court below granting *ex parte* decree to the suit, Mr. Das, learned advocate appearing for the petitioner submits.

While disputing with the impugned orders, Mr. Das submits that when the petitioner falls within the exempted category of persons requiring no deposit of court fees for redressing grievance from a court of law, any subsequent order requiring the petitioner to deposit court fees is contrary to the provisions of the law.

It is thus contended by the petitioner that the report of Sherestadar revealing deficit court fees, may not be levied for drawing up the decree, and the court below being oblivious of the previous orders, and the disclosure made in paragraph-12 of the plaint has recorded the impugned order, requiring the petitioner to deposit court fees of Rs.50,000/- for drawing up the decree.

There is a specific disclosure mentioned in paragraph-12 of the plaint as to the permission granted by the concerned District Legal Services Authority exempting the petitioner from paying

required court fees. There is not only reflection in the order dated 13th June, 2017, but also sufficient disclosure was there regarding deficit court fees in order dated 3rd October, 2020, granting *ex parte* decree. There is some provisions contained in the State Legal Services Authority Act and its Rules framed thereunder making eligible category of persons to seek for exemption from paying court fees for redressal of grievance from a court of law. No further elaboration is felt necessary.

The revisional application is disposed of upon setting aside the impugned order, with a direction upon the petitioner to produce all necessary papers before the court below, particularly the permission granted by the concerned State Legal Services Authority exempting the petitioner from paying the court fees together with the relevant provisions contained in the State Legal Services Authority Act and Rules contained therein, within three weeks from the date of communication of this order to the court below, and upon production of all such documents, as mentioned hereinabove, the issue pertaining to deposit of deficit court fees, may be decided afresh in accordance with the law within fortnight thereafter.

Petitioner is directed to make communication of this order to the learned court below as well as to the

opposite parties and their learned advocate in the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)