

10 04.09.2023
NB Ct. 14

WPA 21121 of 2023

Surya Das
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee,
Mr. Sandipan Das,
Mr. Sayan Banerjee,
Mr. B. Karim,
Mr. Dipankar Das.
...for the petitioner.

Mr. Amal Kr. Sen Id. AGP,
Mr. Lal Mohan Basu.
...for the State.

Mr. Biswajit Mitra.
...for the respondent no.11.

Mr. Asis Bhattacharya.
...for the respondent no.12.

Mr. Pankaj Kr. Mukherjee.
...for the respondent no.10.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner had taken a loan of Rs.1,50,000/- from the respondent no.11 in 2013. He had been paying interest on the same and returned the entire principal sum along with interest in November, 2019. In 2022, the petitioner was astonished to receive an advocate's letter from the respondent no.11 claiming that he had taken Rs.10,00,000/- from him and there is an Arbitration agreement in this regard. No agreement or any other papers to that effect was supplied to him. Even the Arbitrator did not serve any

document like an agreement regarding this. However, soon thereafter, the petitioner found that the bank account has been freezed. Upon enquiry, he came to know that an order was passed by the Arbitrator. Without there being sufficient documents to support the same, the Arbitrator passed an order freezing the account of the petitioner. He suspects collusion between the respondent no.11 and the Arbitrator and accordingly, made a representation before the police authorities. However, no action has been taken by the police in this regard. The petitioner tried his best to reach the Arbitrator, but he was practically untraceable.

The respondent no.12 appearing in person submits as follows. An appeal lies against an order passed by the Arbitrator. Instead of taking recourse to the same, the petitioner cannot approach this Court in a case of police inaction. The petitioner was satisfied with an agreement supplied by the respondent no.11, which prompted the Arbitrator to freeze the account of the petitioner.

Learned counsel appearing on behalf of the State submits as follows. As of now, there does not appear to be a prima facie case to register an FIR. A remedy lies under the Arbitration Act in an appeal before the appropriate forum.

Unless the documents produced before the learned Arbitrator that prompted him to pass an order freezing the account of the petitioner gone into, one cannot assay the veracity of the allegations made by the petitioner. Once such documents come to light upon the petitioner praying for supply of such documents in the arbitration proceeding or in an

appeal, he would be in a better position to raise the issue at an appropriate forum.

The petitioner does have an additional remedy of filing of an appeal against the order of an Arbitrator. He shall be at liberty to do so and shall also be at liberty to take up all the points raised in this application.

With these observations, the writ petition is disposed of.

Urgent certified copy of this order may be given to the parties expeditiously, if applied for.

(Jay Sengupta, J.)