

10th April,
2024
(AK)
11

W.P.A 1686 of 2024

Debasish Bosu Roy Chowdhury
Vs.
Union of India and others

Mr. Dilip Kumar Samanta
...for the petitioner.

Mr. Aman Agarwal
Ms. Niharika singh
Ms. Rupal Singh
Mr. Ashok Kumar Singh
...for the respondent nos.3 & 4.

1. Affidavit-in-reply filed in court today be kept on record.
2. The petitioner submits that the petitioner's vehicle was given as a security to the respondent-Bank.
3. Subsequently an one-time settlement was entered into between the Bank and the petitioner which the petitioner fully serviced, thereby leaving no due.
4. However, Bank has not yet released the vehicle of the petitioner, thereby causing immense loss to the petitioner.
5. Accordingly, the petitioner seeks a return of the vehicle, alternatively damages.
6. Learned counsel for the respondent nos.3 and 4 submits that the Bank had no fault in the matter.
7. Although it is admitted that the petitioner has fully repaid the OTS amount, the vehicle which was

seized by the respondent no.5, which is an agency of the Bank, in the year 2018, was not returned to the Bank despite repeated reminders by the Bank to the respondent no.5.

8. As such, the Bank has lodged criminal complaints upon which FIR has been registered.
9. It is submitted that the scope of grant of damages is limited insofar as the writ court is concerned, since evidence is require to be furnished in that regard.
10. Upon hearing learned counsel, what is evident is that for no fault of the petitioner, the vehicle of the petitioner was not returned to the petitioner.
11. It was the duty of the Bank to ascertain before entering into the OTS and receiving the amount in terms thereof from the petitioner that the vehicle was in appropriate condition and was fit to be released in favour of the petitioner.
12. Having not done so, the Bank is definitely guilty of negligence.
13. However, as rightly contended by learned counsel for the Bank, the writ court cannot enter into the factual issues involved for granting damages to the petitioner, although in principle it is held that the petitioner is entitled to damages.
14. In order to quantify the damages, several factors are to be looked into, including the actual and projected future loss suffered by the petitioner and

the exact role of the Bank in the negligence for which the petitioner is suffering.

15. Since such aspects require elaborate evidence to be taken, it is only appropriate that a competent civil court decides the issue.
16. The matter pertains to the civil court's domain and as such WPA 1686 of 2024 is disposed of by holding on principle that the petitioner is entitled to damages from the respondent-Bank but leaving it open for the petitioner to approach the civil court to claim damages for the purpose of assessment of the quantum of damages and the exact role of the Bank in such negligence.
17. If such a suit is filed within a fortnight from date, it is expected that the same shall be decided as expeditiously as possible and as early as the business of the concerned civil court permits.
18. There will be no order as to costs.
19. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)