

AD-16
Ct No.09
24.04.2024
TN

WPA No. 5305 of 2024

Dr. Subrata Mukhopadhyay alias Dr. Subrata Mukherjee
alias Dr. S. Mukherjee
Vs.
The West Bengal State Consumer Disputes Redressal
Commission and others

Mr. Purnasish Gupta,
Mr. J. K. Mukhopadhyay,
Ms. Sruti Dey

.... for the petitioner

Mr. Abdul Hamid,
Ms. Amrita Tewari

.... for the respondent no. 1

Mr. Joyak Kr. Gupta,
Mr. Nanda Dulal Bandopadhyay

.... for the State

1. Affidavit-of-service filed today be kept on record.
2. The petitioner is one of the award debtors in a proceeding where Rs. 10 lakh was awarded as compensation to the complainant by the State Consumer Disputes Redressal Commission, West Bengal.
3. Learned counsel for the petitioner submits that a similar prayer as in the present writ petition was made before the consumer forum itself but was turned down. It is contended that the petitioner does not want to challenge the award on merits but merely seeks a segregation of the liabilities inasmuch as the petitioner, one of the two award debtors, is agreeable to pay half of the awarded amount to the tune of Rs. 5 lakh. It is submitted that since the petitioner cannot be held

liable for non-payment of the share of the other award debtor, the said order would suffice the purpose of the victim as well, since otherwise, there would be uncertainty cast on when the victim gets the entire amount.

4. Learned counsel for the State respondent submits that an appeal was preferred against the award by the State respondent.
5. However, learned counsel for the petitioner contends that such appeal has since been dismissed. At this, learned counsel for the State respondent contends that a review application was filed. Moreover, the State intends to prefer an appeal before the Supreme Court as well.
6. Be that as it may, it is seen from the award of the State Commission that both the award debtors, including the petitioner, were held to be jointly and severally liable for the act done by them and were directed to pay compensation of Rs. 10 lakh jointly.
7. The implication of segregation of the amount would be that the liabilities are respectively restricted between each of the award debtors to half of the amount, which would be contrary to the intention of the award, which contemplates a situation that due to the joint and several liability, in the event, for some reason, the amount cannot be recovered from one of the award debtors, the entire amount can be recovered from the other award debtor, as both would be jointly liable.

The purpose of the said award itself would be subverted in the event anything contrary is ordered by this court.

- 8.** There is no reason why such course of action shall be taken by the writ court, which is not sitting in appeal over the said judgment.
- 9.** Accordingly, WPA No. 5305 of 2024 is dismissed without any order as to costs.
- 10.** However, nothing in this order shall preclude the petitioner from joining in any challenge, if subsisting at any point of time before any higher forum, to ventilate his grievance without being prejudiced in any manner by the present dismissal.
- 11.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)