

09. 26.11.2024
Court No.13.
(Pritam)

FMA 287 of 2019
Dilip Sinha & Anr.
-Vs.-
State of West Bengal & Ors.

1. No one is present on behalf of the appellant today.
2. The impugned order is dated 4th February, 2019. The grievance of the appellants is that in execution of the Award dated 28th July, 2017 passed by the learned 7th Industrial Tribunal, Calcutta in case No.44/2A(2)/2014. The proceedings have been taken out against the proprietor of the firm (wrongly described as 'Company' in the Award). In the execution proceedings being 33C(2) of the said Award have been directed against the appellants. They claim that the Award was passed against the firm, namely, M/s. Sinha and Sons.
3. The single Bench has dismissed the writ petition on the ground that it is for the petitioners to approach the court below and explain that the Award cannot be executed against the proprietor.
4. It is now well-settled that a proprietorship whose firm carries on business in the name and style of the firm but it is the individual proprietor is the person responsible for the actions of the firm.

5. The proceedings under 33(C)2 being initiated against the appellants, therefore, *prima facie* cannot be faulted. It is for the appellants to demonstrate before the Labour Court that the firm is registered and there are other persons who are responsible for its management. This court, therefore, cannot find fault that the proceedings under 33(C)2 initiated by the Labour Court in execution of the Award dated 28th July, 2017.
6. The appellant is at liberty as granted by the learned single Bench to approach the Labour Court to take up all issues in accordance with law.
7. With the aforesaid observations, FMA 287 of 2019 shall stand disposed of.
8. There will be no order as to costs.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)