

13.12.2024.
Item No. 8.
Court No. 13
ap

F.M.A. No. 251 of 2024

**The Statesman Limited
Versus
State of West Bengal & Ors.**

Mr. Supriya Ranjan Saha.

...For the appellant.

Mr. Anirban Kar,
Mr. Munshi Ashiq Elahi,
Ms. K. Akhtar Ansari.

...For the respondent no.3.

1. The instant appeal is directed against an interim order dated 11th December, 2023 passed by a learned Single Judge of this Court in W.P.A. No. 25848 of 2018.
2. It appears from the facts of the case, as narrated by the Counsels for the parties that a sum of Rs.8,60,786 was found due and payable to the respondent workman as on 19th May, 2016 by the Industrial Tribunal, pursuant to an order passed under Section 33C(2) of the Act of 1947.
3. Upon failure of the employer to pay the said amount, the workman has put the said order under Section 33C(2) into execution. Orders of attachment and arrest have been passed which have, since been withdrawn.
4. Challenging the computation made as on 19th May, 2016, the writ petition in question was filed sometime in 2018 by the appellant. Since the writ petition was found to be in challenge of a money

decree, the learned Single Judge vide order dated 11th December, 2023 has directed the appellant to pay an ad hoc sum of Rs.5,00,000/- and a further sum of Rs.5,00,000/- was directed to be brought to the Court on the returnable date.

5. The appellant has paid the said sum of Rs.5,00,000/- to the workman but on the balance sum, it is submitted that the appellant is liable only to the extent of Rs.3,60,786/- and not any other sum of Rs.12,09,980.96p as claimed by the respondent workman.

6. Before the learned Single Judge, a chart was placed showing calculation of interest on the principal sum of Rs.8,60,786/- at the rate of 10% simple, upto 10th December, 2023 that is how the figure of Rs.12,09,980.96p was arrived at by the workman.

7. This Court notes that on two occasions extension of time to put in deposit was sought before the learned Single Judge of this Court. By reason thereof, it must be inferred that the appellant was quite willing to comply with the order of the learned Single Judge. Taking advantage of the extended time, the instant appeal has been filed.

8. It appears to this Court in no uncertain terms that the appellant has acted contumaciously in, on one hand and seeking time to comply with its order on the other hand and has yet chosen to challenge the same before this Court. The conduct of the appellant

in approbation and reprobation has been recorded by a Co-ordinate Bench of this Court in its order dated 8th August, 2022 in F.M.A. No. 233 of 2022.

9. This Court notes that the workman has not received a single farthing from the year 2016 except a sum of Rs.5,00,000/- paid on 7th September, 2022. More than two years have lapsed since then. The interest awarded by the learned Industrial Tribunal under Section 33C(2) of the Act of 1947 of 10% simple in the principal amount of Rs.8,60,786/- appears to be fair and reasonable.

10. This Court is of the view that the appellant has not approached this Court with clean hands. This Court is desirous of leaving it to the learned Single Judge to deal with the conduct of the appellant, appropriately as indicated hereinabove.

11. This Court finds no reason whatsoever to interfere with the impugned order. The calculation of dues payable to the workman as on 10th December, 2023 after deducting a sum of Rs.5,00,000/- paid to the workman being Rs.12,09,980.96p appears to be in order. As against this, the learned Single Judge has only directed production of Rs.5 more lakhs.

12. In those circumstances, F.M.A. No. 251 of 2024 must fail and is hereby dismissed.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)