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WPO/1789/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SUPRATIK GHOSH
VS
STATE OF WEST BENGAL

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 3rd January, 2024.

Appearance:
Mr. Tapas Dutta, Adv.
. . .for the petitioner.

Mr. Sirsanya Bandopadhyay, Adv.
. . .for the State.

The Court: The petitioner had preferred a writ petition before a coordinate Bench bearing No. WP 31667(W) of 2013 which was decided by the coordinate Bench vide order dated June 26, 2018. The premise of the petitioner's application was that documents of the petitioner which were lying with the Police Authorities, which is an instrumentality of the State, were misplaced by the said authorities, thereby causing huge loss to the petitioner in a money claim made by the petitioner before the competent Civil Court. Such money claim was made against a private party. In the order dated June 26, 2018, the learned Single Judge held that the petitioner was in a position to lead secondary evidence in support of his claim before the adjudicating authorities and as such the claim for compensation need not be assessed at that stage.

Subsequently, however, the petitioner was not permitted to use the documents available as secondary evidence, for which the petitioner again approached the Writ Court which, by its order dated August 11, 2021, observed that the Writ Court was not the appropriate forum to decide the issue since disputed questions of fact and law were involved which required evidence to be adduced. Being aggrieved, the petitioner preferred an intra-Court appeal against the same.

The said appeal bearing APOT 245 of 2022 was disposed of vide order dated May 17, 2023 affirming the order of the learned Single Judge. In the said judgement, the Division Bench observed that as rightly held by the learned Single Bench, the issue raised by the appellant involves disputed questions of fact which obviously cannot be adjudicated in the writ petition. It was further observed that, however, it will be well open to the appellant to pursue the other remedies available under law, if so advised, before the appropriate forum.

Thereafter, when the petitioner approached the respondent authorities with his claim for compensation/damages, by the impugned order dated October 9, 2023, the Additional Chief Secretary Government of West Bengal, by an one-sentence reason, turned down the said claim. The only reason given was that the fact reveals that the discrepancy cropped up due to inter se business dispute between the petitioner and a private party and the Government of West Bengal does not have any kind of connection with that bilateral business dispute in between two private parties.

It is argued that the Government did not specifically controvert or deny the claim of compensation of the petitioner but turned down the petitioner's claim on grounds extraneous to the issue.

Learned counsel for the respondent authority submits that the issue-in-question was closed by the order of the Division Bench when the Division Bench clearly affirmed the findings of the learned Single Judge holding that the matter concerned civil disputes and granted liberty to the petitioner to approach the appropriate forum as advised. It is argued that the Government itself is not the appropriate forum and there is also no scope of further approaching the Writ Court, which approach was previously turned down up to the Division Bench.

In view of the nature of the allegations made by the petitioner in the present writ petition, it transpires that the petitioner's claim lies in damages/compensation against the respondent authorities. Although learned counsel for the petitioner vociferously argues that since the respondents have not categorically denied that the claim for compensation is payable to the petitioner there is no denial as such of the said compensation, such argument cannot be accepted for the simple reason that the respondent authorities are not the adjudicatory authority to decide claims made against the respondents themselves.

Whatever might have been the stand of the respondent authorities, tenable in law or otherwise, by the impugned decision dated October 9, 2023, the respondent authorities have rejected the claim of the petitioner. Relegating the petitioner back to the same respondent authorities would not enure to the benefit

of the petitioner. Obviously, if the claim of the petitioner for compensation/damage was undisputed by the respondent, the respondent would have said so and/or admitted the same in their order and taken steps for disbursing the said amount to the petitioners. Nothing in the impugned decision dated October 9, 2023 can be construed as an admission of the claim of the petitioner regarding damages/ compensation.

Hence, relegating the petitioner back to the respondent authorities in respect of a claim made against the very same authorities would be a futile exercise and would kill further time for the petitioner who has lost sufficient time in moving successive writ petitions on a cause which revolves around a pure civil dispute. As such, although the petitioner prays for a re-relegation to the respondent authorities themselves, the same would not suffice to give proper remedy to the petitioner. The only remedy before the petitioner in respect of his claim for compensation/damages is before the competent Civil Court, which has been held time and again, previously by the Writ Court and then affirmed by the concerned Division Bench in appeal against the said order of the Single Judge. Thus, instead of wasting further time for the petitioner by relegating the petitioner back to the very respondents against whom the petitioner has made the claim, liberty is granted to the petitioner to go to the competent Civil Court and get his dispute resolved once and for all.

In view of the above observations, WPO 1789 of 2023 is disposed of by granting liberty to the petitioner to approach the competent Civil Court with his claim of compensation/damages against the respondent authorities. If so

approached, the competent Civil Court will take a lenient view with regard to limitation in view of the long pendency of the present writ petition and the previous writ petitions and appeals preferred against the orders passed in such writ petitions. It is made clear that the merits of the claim of the petitioner and the defence thereto by the respondents have not been gone into by this Court and it will be open to the competent Civil Court to decide all such issues in accordance with law.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

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