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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13313/2024**

UNION OF INDIA & ORS.

.....Petitioners

Through: Ms. Avshreya Pratap Singh Rudy,
SPC with Ms. Laavanya Kaushik, Mr.
Kaushal Kait, Ms. Usha Jamnal,
Advs. with Major Anish Muralidhar,
Army.

versus

NO. 15163922-M EX. HAV (CLK.SD) TANAY BANIK

.....Respondent

Through: Ms. Avshreya Pratap Singh Rudy,
SPC with Ms. Laavanya Kaushik
(GP), Ms. Usha Jamnal, Advs.
Major Anish Murlidhar.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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23.09.2024

CM APPL. 55610/2024

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 13313/2024 & CM APPL. 55609/2024 (stay)

3. The present writ petition under Article 226 of the Constitution of India seeks to assail the order dated 30.07.2024 passed by the learned Armed Forces Tribunal (AFT) in MA No.3012/2024 in OA No. 1856/2021. Vide the impugned order, the learned AFT has while considering the



petitioner's application seeking waiver of costs of Rs.50,000/- imposed vide order dated 07.05.2024 for non-execution and non-implementation of order dated 25.03.2023 in OA No.1856/2021, imposed further costs of Rs.15,000/.

4. Learned counsel for the petitioners submits that petitioners have not implemented the order dated 25.03.2023 vide which the OA was allowed by the learned AFT as they have already filed a writ petition assailing the said order. She submits that the learned AFT has failed to appreciate that once the order passed in the OA of which implementation was being sought, had already been challenged before this Court, the execution petition filed by the respondent was not maintainable. In support of her plea, she seeks to place reliance on the order passed on 20.08.2001 by the Apex Court in ***Ram Avadh Singh vs. Lalji Yadav & Ors.*** in SLP (Crl.) 2253/2000 and therefore, contends that till the writ petition assailing the order dated 23.03.2023 is decided, the petitioners were justified in not implementing the said order. She, therefore, prays that the impugned order be set aside.

5. Having considered the submissions of learned counsel for the petitioners and perused the record, we find absolutely no reason to interfere with the interim order passed by the learned AFT under exercise of our writ jurisdiction. We have put to learned counsel for the petitioners as to how the petitioners can refuse to implement the order dated 25.03.2023 passed by the learned AFT, when the said order has admittedly not been stayed by this Court. Her only response is that till the writ petition is decided, the petitioners are justified in not implementing the same. We find no merit in this plea as we are of the view that until an order passed by a competent Court is stayed by the superior Court, it is not open for a party to urge that the same will not be implemented.



6. We, therefore, dismiss the writ petition with further costs of Rs.25,000/-. We, however, make it clear that this order will not come in the way of the petitioners to press their stay application in the pending writ petition as per law.

REKHA PALLI, J

SHALINDER KAUR, J

SEPTEMBER 23, 2024

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