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Court : Jharkhand

Decided On : Feb-17-2014

Judge : The Honourable Chief Justice Mrs. R. Banumathi & Shree Chandrashekhar

Appeal No. : Cont. Case (Civil) No. 789 of 2013

Appellant : Dipendra Narayan Ghosh and Another

Respondent : The State of Jharkhand and Another

Judgement :

1. Alleging willful disobedience of order dated 03.05.2012 passed in L.P.A. No. 166 of 2012, the applicants have filed the present contempt application.

2. By order dated 03.05.2012, the Letters Patent Court directed as under :

8. æIn view of the above reasons, the present Letters Patent Appeal is allowed. The order of the learned Single Judge is set aside and consequent thereto, the order of remand dated 24th June, 2006 is also set aside. The appellate court may now proceed to decide the matter, in accordance with law. Both the parties shall appear before the appellate court on 18th June, 2012.?

3. Heard learned counsel appearing for the parties and perused the documents on record.

4. The learned counsel appearing for the applicants has submitted that, though the Hon'ble Division Bench has observed that if all the materials were before the Appellate Authority, the Appellate Authority was bound to take decision in the matter on merits however, the Appellate Authority has again remanded the matter. In this context, the learned counsel appearing for the applicants submits that the direction issued by the Hon'ble Division Bench directing the Appellate Court to decide the matter in accordance with law, would not include power to remand the matter to the Sub-Divisional Officer. It is thus, submitted that by the order dated 19.12.2013, whereby the matter has been remanded back to the Sub-Divisional officer, the Appellate Authority has committed a contempt of order passed by this Court on 03.05.2012.

5. Ms. Nehala Sharmin, the learned counsel appearing for the respondents submits that in compliance of order passed by this Court on 03.05.2012, the Appellate Authority has already passed order dated 19.12.2013 and therefore, it cannot be alleged that the Appellate Authority has willfully disobeyed the order passed by the Hon'ble Division Bench on 03.05.2012. She has further submitted that since the Appellate Authority has passed the order on 19.12.2013, it is open to the applicants to challenge the order of remand by filing an appropriate application however, the applicants could not have preferred the contempt application.

6. By order dated 03.05.2012, the Division Bench of this Court directed the Appellate Court that the Appellate Court may proceed to decide the matter in accordance with law. In compliance to the order passed by this Court, the Appellate Authority has passed the order on 19.12.2013 whereby, the matter has been remanded to the Sub-Divisional Officer. We are of the view that the power to decide would include the power to allow, the power to admit, the power to reject as well as the power to remand the matter. The Appellate Authority has while deciding the matter, taken a view that on a particular aspect of the matter, the matter is first required to be decided by the Sub-Divisional Officer and for that

reason, the matter has been remanded back to the Sub-Divisional Officer. We are of the view that the Appellate Authority has proceeded in the matter in accordance with law and therefore, we do not find any willful disobedience committed by the Appellate Authority.

7. Accordingly, this Contempt Petition is closed. It is open to the applicants to challenge the order passed by the Appellate Authority/ Deputy Commissioner, Ranchi in accordance with law.

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