

Diamond Construction Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Feb-14-2008

Reported in : [2008(2)JCR109(Jhr)]

Judge : Ramesh Kumar Merathia, J.

Appellant : Diamond Construction

Respondent : State of Jharkhand and ors.

Advocate for Pet/Ap. : Mr. Mahesh Tiwari

Disposition : Petition dismissed

Judgement :

ORDER

Ramesh Kumar Merathia, J.

1. Heard the parties finally.
2. The petitioner filed a writ petition being WP (C) No. 5667 of 2006 which was disposed of by passing the following order:

Petitioner has come up against the order dated 28th August, 2006, issuing distress warrant against its proprietor in Certificate Case No. 01 of 2006-07.

It is settled law that a writ Court cannot settle the civil disputes and no illegality in the proceedings, initiated by the Certificate Officer, has been pointed out.

Learned Counsel appearing for the petitioner, however, submits that the petitioner may be allowed some reasonable time to deposit the outstanding amount. In view of this statement, the writ petition is disposed of with a direction to the Certificate Officer, Bermo (Tenughat), not to execute the distress warrant, issued in Certificate Case No. 01 of 2006-07 for a period of two months from today. If the petitioner fails to deposit the amount in question within the aforesaid period of two months, the Certificate Officer shall be at liberty to proceed in accordance with law.

3. Admittedly the petitioner did not comply with the said order by depositing the amount within the time. Thereafter he filed this writ petition for quashing the same order dated 28th August, 2006 passed by the Certificate Officer, Bermo at Tenughat in Certificate Case No. 01 of 2006-07 issuing distress warrant, on the ground that he had deposited Rs. 1,00,000/- in compliance of the said order.

4. The stand of the respondents is that this writ petition is not maintainable being barred by res judicata and though the petitioner has deposited certain amounts, but not as per the said order of this Court.

5. In the counter-affidavit filed on 4.2.2008, the stand of the respondent No. 4 quantifying the dues upto January. 2008 was as follows:

It is not out of place to mention that due to the endeavour taken by this Hon'ble Court, the petitioner has further deposited a sum of Rs. 3,23,260/-including the amount of Rs. 1.00 lakh which he has already deposited earlier against the Bank's outstanding and further a sum of Rs. 57,930/- has also been deposited in January, 2008 by the petitioner and after deducting the entire payment the amount outstanding along with the interest calculated as on 31.1.2008 in the account of the petitioner is Rs. 2.13,429/- and since he is perpetual and willful defaulter so his compromise proposal was already rejected, thus now the petitioner has to pay a sum of Rs. 2,13,429/- In full and final settlement of his outstanding dues towards the Bank.

6. Mr. Mahesh Tiwari, appearing for the petitioner submitted that during certificate proceeding, Bank cannot charge interest and moreover he submitted that the amount with interest cannot be so high.

7. In view of the said order dated 19.12.2006 passed by this Court in WP (C) No. 5667 of 2006, this writ petition is not maintainable. Moreover it is not possible to go into the calculation of the amount due to the petitioner in this writ petition. In the circumstances, this writ petition is dismissed. However, no costs.

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