

Dipak Kumar Chatterjee Vs. Commissioner of Payments (Jute) and Another

Dipak Kumar Chatterjee Vs. Commissioner of Payments (Jute) and Another

SooperKanoon Citation : sooperkanoon.com/648523

Court : Supreme Court of India

Decided On : Jan-07-1993

Reported in : AIR1993SC1264; JT1993(1)SC58; 1993(1)SCALE16; (1993)1SCC434

Judge : P.B. Sawant and; R.M. Sahai, JJ.

Appeal No. : Civil Appeal No. 5954 of 1990

Appellant : Dipak Kumar Chatterjee

Respondent : Commissioner of Payments (Jute) and Another

Judgement :

1. The present appeal is filed against the order of the High Court passed on 3rd March, 1989. The grievance of the appellant is that by the said order, the high Court has given a free hand to the Commissioner under Section 17 of the Jute Companies [Nationalisation] Act, 1980 [the 'Act'] to deal with the claim of the appellant, as and when filed, as the Commissioner thought fit to do. The implication of the order is that the Commissioner could go into the merits of the appellant's claim once again, notwithstanding that the appellant has a decree of the High Court in his favour which has become final. There is no doubt that the observations made by the High Court while 30 passing the impugned order are capable of being interpreted in the manner the appellant urges before us. It is also found from the affidavit filed by the Commissioner in those proceedings that he

has purported to go into the merits of the appellant's claim. Unfortunately, in these proceedings, the appellant has not challenged the order of the Commissioner dated 12th April, 1989 whereby the Commissioner has reopened the appellant's claim against the Mill. However, notwithstanding this technical defect, we permit him to challenge the same since the appellant in these proceedings has challenged the High Court's order pursuant to which the Commissioner has passed his said order of 12th April, 1989.

2. We find from his order of 12th April, 1989 that the Commissioner has gone beyond the provisions of Section 17 of the Act inasmuch as he has tried to investigate the merits and the validity of the appellant's claim decreed by the High Court. The Commissioner has to examine the said decretal claim, only within the bounds of the provisions of Sections 17 and 18 of the Act. The order dated 12th April, 1989 being without jurisdiction is void and is hereby set aside. The respondent-Commissioner is directed to examine the decretal claim of the appellant only in the light of the provisions of Sections 17 and 18 of the Act.

3. The appeal stands allowed accordingly with no order as to costs. The Commissioner is directed to decide the appellant's claim within four months from today.