

Execution Application NO. 04/DB /2016
S.C. Mathur vs. State & others

Dated: 20.01.2023

Present: Sri M.R.Saklani, Advocate, for the Petitioner.
Sri V.P.Devrani, A.P.O., for respondent/ State
Sri B.S.Rawat, Advocate for Sugarcane Department. (online)

Ld. Counsel for the respondent department (Sugarcane Department) submitted that the stay granted by the Hon'ble High Court still continues.

The claim petition No. 42/SB/2015 was filed by Sri S.C.Mathur against Doiwala Sugar Company Ltd. and others. The claim petition was allowed *vide* order dated 25.05.2015, operative portion of which reads as follows:

“The petition is allowed with costs. The Respondents No. 2 & 3 are directed to make payment of Rs.96,904.40/- along with simple interest @ 9% per annum w.e.f. 31.03.2003 till actual payment to the petitioner. The payment should be made of whole of the amount including costs within a period of three months from today.”

Against such order of the Tribunal, writ petition was filed before Hon'ble High Court of Uttarakhand. Hon'ble Court passed an order on 20.11.2015 in WPSB No. 499/2015, as follows:

“Mr. Ganesh Kandpal, Advocate for the petitioner.
Notice to respondent nos. 1 and 2 on the question of interest only.
Mr. Ravindra Singh Bisht, Brief Holder accepts notice for respondent no.3.
At this stage, it is not necessary to issue notice to respondent no.4.
List this matter immediately after service is complete.
There will be an interim order staying the impugned order insofar as it relates to the interest part only.
Interim Relief Application (CLMA No. 13139 of 2015) stands disposed of.”

[*Emphasis supplied*]

Thereafter, Execution Application No. 04/DB/2016 was filed by the petitioner to secure compliance of the order dated 25.05.2015, passed by this Tribunal in Claim Petition No. 42/SB/2014, S.C.Mathur vs. State and others.

It is the submission of Sri M.R.Saklani, Ld. Counsel for the petitioner-executioner (respondent in WPSB No. 499/2015) that the execution proceedings may be started in the light of Paras No. 33, 35, 36 & 37 of the decision rendered by Hon'ble Supreme Court in Asian

Resurfacing of Road Agency Pvt. Ltd. vs. Central Bureau of Investigation, 2018 0 Supreme (SC) 266. Sri B.S.Rawat, Ld. Counsel for the respondent department submitted that a sum of Rs.96,904.40/- has already been paid to the petitioner in the year 2016 and interest part has been stayed by the Hon'ble High Court.

So long as Hon'ble Court's order dated 20.11.2015 passed in WPSB No. 499/2015 continues and remains in force, this Tribunal cannot proceed with the execution application. The decision rendered by Hon'ble Apex Court in Asian Resurfacing of Road Agency Pvt. Ltd. vs. Central Bureau of Investigation (*supra*) is not applicable to the facts of this case. Therefore, the oral prayer of Ld. Counsel for the petitioner (respondent in writ petition), which has been mentioned above, is rejected.

List on 28.02.2023 for further orders . Parties are granted liberty to make a mention for early hearing of the execution petition, if the stay is vacated or some other order is passed by the Hon'ble High Court.

RAJEEV GUPTA
VICE CHAIRMAN (A)

JUSTICE U.C.DHYANI
CHAIRMAN

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