

CRP No. 09 of 2016

State of Sikkim & Ors. vs. Hantey Gyatso Kazi & Anr.

BEFORE

HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

3. 21.03.2017 Present: Mr. J.B. Pradhan, Addl Advocate General and Mr. Mr. Karma Thinlay, Sr. Govt. Advocate with Mr. S.K. Chettri and Mrs. Pollin Rai, Assistant Government Advocates for the State-Petitioner.

Mr. N. Rai, Sr. Advocate with Ms. Tamanna Chhetri and Malati Sharma, Advocates for the Respondent No.1.

Mr. Hantey Gyatso Kazi, Respondent No.1 in person.

Mr. Sudipto Majumdar and Mr. D.K. Siwakoti, Advocates for the Respondent No.2.

(1) Heard.

(2) It is prayed by learned Counsel for the Petitioner that the Order of the Executing Court dated 19.09.2016, be set aside in view of the fact that the said Order is beyond the scope and ambit of the High Court Lok Adalat's Order dated 14.10.2015.

(3) The Respondent has no objection to the submissions, but prays that he may be afforded liberty to appear before the High Court Lok Adalat on the same questions raised by him before the Lok Adalat.

(4) Considered submissions of both learned Counsel.

(5) The Order dated 14.10.2015 of the High Court Lok Adalat reads as follows;

"1. 14.10.2015

Mr. Gautam Biswas, General Manager of the Airport Authority of India (Respondent No.3), states that the Central Buildings Research Institute (C.B.R.I.) has been engaged to survey and assess damages caused to the houses in the (sic) lying in the vicinity of the Airport Project. So far they have taken up those cases referred to them by the State Government and the case of the Petitioner is not one of those. He however fairly submits that they will take up case of the petitioner also and write to the District Collector. The S.D.M who is present before us in person also assured us that he shall brief the District Collector of the present proceedings and its outcome.

Mr. Y. N Gautam, Superintendent (sic) Engineer, Buildings and Housing Department is present for Respondent No. 2 and states that if the case of the petitioner is referred to them through the S.D.M they shall immediately take up the process of the survey.

Mr. Gautam Biswas states that he shall take up the matter for reference with the S.D.M., Pakyong and also write to their Central HQ to brief them of the matter immediately for necessary steps for redressal of the grievance of the Petitioner.

In view of the above I do not see any reason as to why this matter should not be kept pending before us. With the above observations we close the case as settled."

(6) Order dated 19.09.2016 of the learned Trial Court, *inter alia*, reads as follows;

"19.09.2016

Therefore, in view of the above facts and circumstances and in view of the order of the Hon'ble High Court Lok Adalat, I am of the considered view that State Government is liable to pay the compensation to the Decree Holder as per the assessment reports submitted by the J.D No. 2. Thus, the Judgment Debtor No. 1 is directed to take necessary steps to pay the compensation for damages amounting to ₹ 65,41,062/- (Rupees Sixty-Five Lakh Forty-One Thousand Sixty-Two only) to the Decree Holder within 30 days from the receipt of this order.

....."

(7) On careful reading of both the Orders, it is evident that the High Court Lok Adalat has merely directed Mr. Gautam

Biswas to take steps with regard to the case of the Petitioner which the said person has agreed to. The concerned Sub Divisional Magistrate appears to have been present before the Lok Adalat, who for his part has assured the Lok Adalat that he shall brief the District Collector of the said proceedings and its outcome. Along with the Sub Divisional Magistrate, the Superintending Engineer, Buildings and Housing Department, is said to be present before the Lok Adalat, who stated that if the case of the petitioner is referred to them through the Sub Divisional Magistrate, they shall immediately take up the process of the survey. However, the learned Trial Court while considering the submissions of the Decree Holder/Respondent herein, went beyond the scope and ambit of the Order of the High Court Lok Adalat and computed compensation at an amount of Rs.65,41,062/- (Rupees Sixty-Five Lakhs, Forty-One Thousand and Sixty-Two) only, ordering that the said amount be paid to the Decree Holder within thirty days from the receipt of the Order.

(8) There can be no manner of doubt that the executing Court has read far more into the Order of the High Court Lok Adalat than what has been mentioned therein. Accordingly, it would be appropriate in the interest of justice to set aside the Order of the executing Court.

(9) As agreed by the parties, it is ordered that the Respondent if so advised can approach the High Court Lok Adalat afresh on the same points raised before.

(10) C.R.P. No. 09 of 2016 stands disposed of, accordingly.

(11) Copy of this Order be sent to the learned Trial Court for information.

Sd/-
Judge
21.03.2017

Index : ~~Yes~~ / No
Internet : Yes / ~~No~~
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