

W.P.(C) No.811 of 2017

31.01.2017. Mr. Kumar Parija-2, learned counsel for the petitioner and Mr. S.S. Mohapatra, learned Additional Standing Counsel.

In this case, the petitioner has prayed for a direction to the opposite party nos. 2 and 3 to disburse the legitimate and admitted dues of the petitioner as mentioned in Annexure-1 as expeditiously as possible, preferably within a period of one month at the prevailing rate of Bank interest.

Mr. Parija, learned counsel for the petitioner, submitted that the dues of the petitioner as indicated under Annexure-1 have been pending since 2000. Despite assurance and admission by opposite party no. 3 for making payment, however, till date nothing has been done. In such background, the petitioner has made the earlier mentioned prayer. In the alternative, Mr. Parija learned counsel for the petitioner submitted that a direction be given to opposite party no. 2 to dispose of the representation under Annexure-2 within a stipulated period.

Mr. Mohapatra, learned Addl. Standing Counsel opposed such prayer and submitted that the writ application is not maintainable on the ground of gross delay. He also submitted that this being a money claim for enforcement of civil rights, the present writ application is otherwise not maintainable.

Though Mr. Parija, learned counsel for the petitioner highlighted that the admitted dues of the petitioner as under Annexure-1 have remained unpaid, however a perusal of Annexure-1 does not show any such admission by any appropriate authority by any of the opposite parties.

Further, with regard to assurance given to the petitioner for making payment as submitted by Mr. Parija, not a scrap of paper has been filed in support of the same. Except the bald statement with regard to assurance made at Para-6 of the writ application no document has been annexed in support of the same. In such background, it is clear that the petitioner has approached this Court praying for exercise of extraordinary jurisdiction of this Court after a gap of 16 years without any cogent explanation except making some bald statements.

In this context, it may be noted here that the Honble Supreme Court in Chennai Metropolitan Water Supply and Sewerage Board and others v- T.T. Murali Babu reported in AIR 2014 S.C. 1141 has made it clear that the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court, it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. The Honble Supreme Court has also pointed out that the delay comes in the way of equity.

In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant, who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of litigant a litigant who has forgotten the basic norms, namely, procrastination is the greatest thief of time and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In that case, though there was four years delay in approaching the court, yet the writ court chose not to address the said issue. In such background, the Honble Supreme Court held that it is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification and opined that a court is not expected to give indulgence to such indolent persons who compete with Kumbhakarna or for that matter Rip Van Winkle. Accordingly, in the facts of the case, the Honble Supreme Court held that the delay therein did not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

In such background, since the factual backdrop of the present case involves enormous delay without any adequate explanation, this Court is not inclined to entertain the present writ application. With regard to the alternative, prayer for disposal of the representation, the same also cannot be granted in view of the decision of the Honble Supreme Court in C. Jacob v- Director of Geology and Mining and another reported in AIR 2009 S.C. 264 as the representation relates to stale claims.

For all these reasons, the writ application is dismissed. No cost.

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BISWAJIT MOHANTY, J.

SWAJIT MOHANTY, J

