
(2018) 07 CHH CK 0249
In the Chhattisgarh High Court
Case No : Writ Petition (L) No.196 Of 2012

Harilal	Vs	APPELLANT
Employees Provident Fund Organisation And Ors		RESPONDENT

Date of Decision : 20-07-2018

Acts Referred:

Employees' Provident Funds And Miscellaneous Provisions Act, 1952 — Section 7A, 8B(1)

Citation : (2018) 07 CHH CK 0249

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : S.P. Kale, Sunil Pillai

Final Decision : Disposed Of

Judgement

Sanjay K. Agrawal, J

1. Heard.

2. Learned counsel for the petitioners submits that bailable warrant of arrest has been issued against petitioner No.2 on 10-3-2004. He further submits that the sole relief claimed in the writ petition is that the bailable warrant issued against petitioner No.2 be set aside.

3. Learned counsel for the respondents submits that this bailable warrant is only for appearance of petitioner No.2 on 1-4-2004, the date has already elapsed and final order has already been passed on 3-11-2004 (Annexure R/8). Since the date of appearance given in the bailable warrant has already come to an end, no order is required to set aside that bailable warrant.

4. The Andhra Pradesh High Court in the matter of Regional Provident Fund Commissioner, Employees Provident Fund Organisation, Hyderabad and another v. Deccan Foam Plastics Pvt. Ltd., Narsapur (Rep. by ITS M.D.) 2005 (105) FLR 1184 has clearly held that resort to arrest and detention of employer cannot be

taken without exhausting the remedy of attachment and sale of properties of establishment for realisation of amounts of arrears, the arrest of employer and his detention in prison cannot at all be made in view of proviso to Section 8-B (1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'the Act of 1952').

5. In view of the above, the writ petition is disposed of as aforesaid. The respondents are at liberty to proceed in accordance with law. The petitioners are also at liberty to file objection / reply / appeal, if any, to the order passed under Section 7-A of the Act of 1952, as per law. No order as to cost(s).