

(2018) 01 DEL CK 0172

In the Delhi High Court

Case No : Civil Writ Petition No. 1667 Of 2017

Sukhram

APPELLANT

Vs

Nct Of Delhi & Ors

RESPONDENT

Date of Decision : 04-01-2018

Acts Referred:

Constitution Of India, 1950 — Article 226
Employee's Compensation Act, 1923 — Section 31
Revenue Recovery Act, 1890 — Section 5

Citation : (2018) 01 DEL CK 0172

Hon'ble Judges : Vinod Goel, J

Bench : Single Bench

Advocate : Arunabh Bakshi, Amresh Mathur, Sumit Rajput, Rishabh Jetley, Sanjoy Ghose

Final Decision : Disposed Of

Judgement

Vinod Goel, J

1. The petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus or any other writ to set up a proper mechanism for speedy and timely recovery of the Award passed by the Commissioner under the Employee's Compensation Act, 1923 and also for a direction to respondent no.2/SDM, Punjabi Bagh, New Delhi to recover the amount awarded vide order dated 07.04.2016 by the Commissioner.

2. On 11.05.2011, the son of the petitioner namely Mr.Krishna Kumar Saroj, who was employed with the respondent no. 4 M/s.Sameer Enterprises as a cleaner on the Oil Tanker, had died during the course of the employment. On 07.04.2016, the Commissioner Employee's Compensation/the Assistant Labour Commissioner, Labour Department, Government of NCT of Delhi, after hearing the parties awarded a compensation of Rs.6,54,562/- with interest @ 12% per annum from 07.06.2011 till its realization against the M/s. Sameer Enterprises in favour of

the dependents of the deceased. M/s.Sameer Enterprises was directed to deposit the awarded amount by pay order in favour of Commissioner Employee's Compensation - VIII within a period of 30 days for disbursement to the claimants.

3. Learned counsel for the petitioner submits that the petitioner, who is the father of the deceased, is a senior citizen and aged about 80 years and he had approached the Assistant Labour Commissioner/ Commissioner Employee's Compensation, Pushpa Bhawan, Pushp Vihar, New Delhi-110062 several times but nothing could be materialized and SDM office is not entertaining the petitioner to get the Award implemented. He submits that some proper mechanism should be setup to get the award issued under Employee's Compensation Act executed.

4. He submits that the concerned SDM, Punjabi Bagh, New Delhi may be directed to get the amount of Award recovered from M/s Sameer Enterprises against whom the Award has been passed by the Commissioner Employee's Compensation.

5. Here it would be profitable to refer Section 31 of the Employee's Compensation Act, 1923, which reads as under: -

"31. Recovery. - The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (1 of 1890).

6. It is thus clear that under Section 31, it is the Commissioner who can recover the awarded amount as an arrears of land revenue and he shall be deemed to be a "public officer" within the meaning of Section 5 of the Revenue Recovery Act, 1890 (1 of 1890). Therefore, the proper mechanism is already provided by the statute.

7. At this stage, learned counsel for respondent no. 1 to 3 appears and submits that a sum of Rs.5,00,000/- has been recovered from the respondent no.4 by way of three Demand Drafts (i) Rs.2,00,000/- by Demand Draft bearing No.083526 dated 01.11.2017, (ii) Rs.1,55,000/- vide Demand Draft bearing No.84154 dated 21.12.2017 and (iii) Rs.1,45,000/- vide Demand Draft No.084250 dated 30.12.2017. He has placed on record the brief comments of Ms. Aashika Jain, (IAS), SDM Punjabi Bagh, Delhi along with the photocopy of documents. He further submits that the balance amount would be deposited within two months by the respondent no. 4. Learned counsel for the petitioner is informed of the recovery. It is expected that recovered amount shall be immediately disbursed to the claimant by the Commissioner and at the same time interest of minor claimant shall be protected and taken care of. It is further expected that balance amount would be soon recovered from M/s Sameer Enterprises as per rules and disbursed to the claimants.

8. The petition is disposed of accordingly.