

(2009) 12 JH CK 0104
In the Jharkhand High Court

Surendra Prasad Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-12-2009

Acts Referred:

Citation : (2009) 12 JH CK 0104

Hon'ble Judges : Gyan Sudha Mishra, C.J.;Rakesh Ranjan Prasad, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal has been preferred against the order dated 5.5.2009 passed by the learned Single Judge in W.P.(C) No. 528 of 2008, by which the claim of the petitioner/appellant herein, seeking a direction to pay interest on the principal amount, on the ground that payment of principal amount was delayed by more than 12 years, was rejected.

2. The case leading up to the filing of this appeal is that the petitioner-appellant herein was awarded a work-contract relating to repair of the National Highway and the petitioner had executed the work after which he also submitted his bill for payment. But, as per the petitioner-appellant's version, the payment was not made for a long number of years, for which writ petitions, bearing C.W.J.C. Nos. 1845 of 1996R, 3780 of 1997R and 3287 of 2002 was filed claiming payment for the aforesaid work and the same was disposed of with a direction to the concerned respondents to make payment of the principal amount to the petitioner. However, when the respondents did not take any action, the petitioner filed a Contempt Case (Civil) No. 170 of 2003. But during pendency of the contempt application, payment of the principal amount was made to the petitioner in the year 2004.

3. Thereafter a period of 12 years, the petitioner filed another writ petition, out of which this appeal arises wherein the petitioner claimed interest on the principal amount which he had received way back in the year 2004 wherein the

learned Single Judge had been pleased to hold that the petitioner who had raised the claim on the principal amount long back and also received the same, should have agitated the claim of interest also promptly but he failed to do so and filed a writ petition only in the year 2008, i.e. after more than four years.

4. However, the Counsel for the petitioner submitted that he had raised the claim of interest time and again. But even if it is correct, the same could not have been allowed, since the same would be clearly barred by the principle of constructive res judicata. When the petitioner-appellant herein filed a writ petition claiming payment, it was his duty to include the prayer claiming interest also on the amount claimed as it was a consequential relief and could not have been allowed to claim it in a piecemeal manner by filing successive writ petitions as the same would be clearly barred by the principle of constructive res judicata. If the principal issue of payment had been raised for adjudication, the consequential relief claiming interest also ought to have been raised in the same petition since the cause of action in a piece-meal manner cannot be allowed to be raised by successive writ petitions. To illustrate the point, it may be stated that when a person files a writ petition claiming promotion, it is also his duty to raise the claim of consequential benefits in the same writ petition and cannot be permitted to file another writ petition for consequential relief after succeeding in the promotion case. The principle of constructive res judicata clearly takes care to stop multiplicity of the proceeding in regard to one and the same cause of action by incorporating checks upon successive litigations. Thus, even if the petitioner had raised the claim of interest promptly, the same could not have been granted by a successive writ petition, as it was the duty of the claimant/appellant to raise his claim for grant of interest when he had filed the writ petition earlier raising his claim.

5. Thus, apart from the reasons which have been assigned by the learned Single Judge, the appeal is not fit to be entertained for payment of interest. Consequently, the appeal is dismissed.