

(2024) 06 SIK CK 0059
In the Sikkim High Court
Case No : Contempt Case (C) No. 02 Of 2024

Tenzing Kelsang Kalden

APPELLANT

Vs

State Of Sikkim And Others

RESPONDENT

Date of Decision : 10-06-2024

Acts Referred:

Citation : (2024) 06 SIK CK 0059

Hon'ble Judges : Meenakshi Madan Rai, J

Bench : Single Bench

Advocate : Gita Bista, Pratikcha Gurung, Dipendra Chettri, Zangpo Sherpa, Sujan Sunwar, Karma Thinlay, Yashir N. Tamang, Zamyang N. Bhutia, Chetan Sharma

Judgement

Meenakshi Madan Rai, J

1. Mr. Karma Thinlay, Learned Senior Counsel with Mr. Yashir N. Tamang, have entered appearance on behalf of Respondents No.3 and 4.
2. The Petitioner submits that the Respondents No.2, 3 and 4 are in contempt of the Judgment of this Court, dated 18-10-2023, in CO No.04 of 2016 in RFA No.15 of 2016, CO No.05 of 2016 in RFA No.15 of 2016 and CO No.02 of 2022 in RFA No.15 of 2016, in view of the fact that it has been specified therein that the District Collector, Respondent No.2, was directed to release the computed award amount to the Claimants No.1, 2 and 3. That, in contravention to the said Judgment, which has been upheld by the Supreme Court in Special Leave Petition (Civil) Diary No(s).52101/2023, dated 19-02-2024, a cheque amounting to ₹ 5,15,61,247/- (Rupees five crores, fifteen lakhs, sixty one thousand, two hundred and forty-seven) only, was released only to Respondent No.3 herein and taken over by his daughter Respondent No.4 herein. That, hence the District Collector, Respondent No.2, is liable for contempt.
3. Learned Additional Advocate General appearing for the Respondents No.1 and 2 herein submits that the amount computed as award is much higher than ₹

5,15,61,247/- (Rupees five crores, fifteen lakhs, sixty one thousand, two hundred and forty-seven) only. That, the amount supra that was made over to Respondent No.3 was the amount which was lying with the Learned Reference Court. That, from the remaining amounts of the award that is yet to be received, necessary payments will be made over to the five Claimants duly adjusting the amount handed over to Respondent No.3.

4. Mr. Karma Thinlay, Learned Senior Counsel for the Respondents No.3 and 4 submits that the Petitioner has erred in stating in the Contempt Petition that the Claimants are entitled to 1/3rd each of the award amount when the Judgment of this Court, dated 18-10-2023, at Paragraph 13 has clearly elucidated that the Claimant No.1, Claimant No.2 for herself and as constituted attorney for her two siblings and Claimant No.3 are entitled to the reliefs which makes it 1/5th each. Responding to this point, Learned Counsel for the Petitioner concedes that in fact Paragraph 13 clarifies that the award amount shall be for five Claimants and not three, as erroneously averred in the Contempt Petition. This facet therefore remains clarified.

5. It is the further submission of Learned Senior Counsel for the Respondents No.3 and 4 that despite notice being issued by the Respondent No.2 to the Petitioner before the release of the Cheque in dispute, he failed to enter appearance and cannot now agitate the matter on this issue before this Court. That, from the Cheque received by Respondent No.3, more than ₹ 4,00,00,000/- (Rupees four crores) only, has already been expended by him to settle loans and other dues.

6. Considered submissions.

7. It is clear from the Judgment dated 18-10-2023 of this Court supra at Paragraph 14 that the District Collector shall make the necessary computation in terms of the detailed directions and the payment of the award amount, so computed be released to the Claimants No.1, 2 and 3 within a period of forty-five days from today, failing which the Respondent No.4 shall pay additional interest @ 10% on the entire award amount, from the date of filing of the Reference Application before the Respondent No.4, till full and final realisation.

8. The question now with is whether the instalments have been released in terms of the directions given in the Judgment of this Court, which was upheld by the Supreme Court, save modification to the extent of ordering specific dates for release of the first, second and third instalments of the award amount.

9. As Learned Counsel for the Petitioner denies that notice was issued to the Petitioner by the Respondent No.2 and in consideration of the circumstances put forth (supra), let the Respondent No.2 be present in the Court along with the detailed records pertaining to the matter.

10. Let the Respondent No.3 file an Affidavit with all details of expenditure made by him on receipt of the disputed Cheque.

11. List on 26-06-2024.