
(2011) 04 AHC CK 0203
In the Allahabad High Court
Case No : Writ C. No. 22322 of 1997

U.P.S.R.T.C.

APPELLANT

Vs

Smt. Ram Devi and Another

RESPONDENT

Date of Decision : 01-04-2011

Acts Referred:

Citation : (2011) 04 AHC CK 0203

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Judgement

Sibghat Ullah Khan, J.—Heard learned Counsel for the Petitioner. In spite of sufficient service no one has appeared on behalf of Respondent No. 1, the only contesting Respondent. This writ petition is directed against the order dated 21.12.1996 passed by M.A.C.T./III Additional District Judge, Orai in Execution Case No. 4 of 1985 Shiv Shankar v. U.P. State Road Transport Corporation. That order is only of three lines directing that recovery certificate of Rs. 20,576/- should be issued against the U.P. State Road Transport Corporation. The said order was passed on the application dated 26.08.1996, copy which is Annexure-6 to the writ petition. In the said application, details were given. An amount of Rs. 24,000/- was directed to be paid by the Petitioner to Respondent No. 1 through judgment and order dated 14.02.1985 passed by M.A.C.T./District Judge, Jalaun at Orai in Claim Petition No. 26 of 1980. Interest at the rate of Rs. 9% per annum was also directed to be paid. Against the said judgment and order, Petitioner filed appeal in this Court (FAFO No. 452 of 1985) in which a conditional stay order was passed on 07.08.1985 directing the Petitioner to deposit Rs. 10,000/-. The said amount was deposited and withdrawn by Respondent No. 1. Thereafter, the said appeal was got dismissed voluntarily by the Petitioner before Lok Adalat and thereafter a draft of Rs. 39,405/- was deposited by the Petitioner which was withdrawn by the Respondent No. 1 as admitted by her in her application, Annexure No. 6. Still she claimed that Rs. 20,576/- was further due as interest. In the said application, she did not say anything regarding Rs. 10,000/- earlier deposited by the Petitioner in pursuance of order dated

07.08.1985 passed in FAFO No. 452 of 1985. Moreover, after deposit of the said amount by Petitioner interest could not be calculated upon said amount.

3. In the impugned order, absolutely no detail of the due amount has been given. In this writ petition also a conditional stay order was passed on 28.08.1997 directing the Petitioner to deposit Rs. 10,000/- before the Tribunal. The said amount according to the learned Counsel for the Petitioner was deposited. Accordingly, in my opinion, the impugned order is not correct and requires to be set aside with the direction to the Tribunal below to decide the quantum of liability by giving details. However as unduly long time has already passed and in spite of sufficient service no one has appeared on behalf of the Respondent No. 1, hence in my opinion, interest of justice will best be served by passing the following order.

5. Writ petition is disposed of. Impugned order is modified. It is directed that apart from the amount of Rs. 10,000/- which was deposited by the Petitioner under interim order dated 28.08.1997 passed in this writ petition, the Petitioner shall not be liable to pay any additional amount under the aforesaid award. The amount of Rs. 10,000/- deposited by the Petitioner shall at once be permitted to be withdrawn by the Respondent No. 1.