

**(2011) 05 DEL CK 0091**

**In the Delhi High Court**

**Case No : Writ Petition (C) 8366 of 2009**

Vinod Chand Sud

APPELLANT

Vs

Suresh Kumar and Others

RESPONDENT

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**Date of Decision :** 11-05-2011

**Acts Referred:**

**Citation :** (2011) 05 DEL CK 0091

**Hon'ble Judges :** Rajiv Sahai Endlaw, J

**Bench :** Single Bench

**Advocate :** Puneet Saini, for the Appellant; Mahesh Srivastava, for R-1 and V.K. Tandon, Addl. Stdg. Counsel for NCT for R-2 and 3, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Rajiv Sahai Endlaw, J.—The petition has been filed impugning the recovery notice dated 20th March, 2009 issued by the Respondent No. 2 Dy. Commissioner (West) Govt. of NCT of Delhi in execution of the Recovery Certificate issued by the Respondent No. 3 Labour Commissioner, Govt. of NCT of Delhi in implementation of the award dated 9th January, 2004 of the Industrial Adjudicator on a dispute raised by the Respondent No. 1 workman against the Management of M/s B.C. Sood, D-17, Rajouri Garden, Delhi. The award holds the services of the Respondent No. 1 workman to have been terminated illegally and unjustifiably by the Management of M/s B.C. Sood and directs the said Management of M/s B.C. Sood to reinstate the Respondent No. 1 workman with continuity of service and full back wages.

2. The Respondent No. 1 workman applied to the Respondent No. 3 Labour Commissioner for implementation of the award. It appears that since Shri B.C. Sood had died; the Respondent No. 1 workman sought implementation of the award against the son of Shri B.C. Sood namely the Petitioner herein. The Labour Commissioner accordingly sent a notice dated 6th September, 2007 to the Petitioner asking the Petitioner to appear and explain as to why the award had not been implemented.

3. In response thereto the Petitioner sent a letter dated 20th September, 2007 to the Labour Commissioner stating that he was looking into the matter and seeking time. The Petitioner himself filed a further application dated 24th March, 2009 before the Labour Commissioner through his Advocate for adjournment and in which it was stated that the Petitioner will be arranging funds to pay the amount of Rs. 2,21,422/- demanded from the Petitioner in implementation of the award.

4. Upon the failure of the Petitioner to pay the said amount, Recovery Certificate was issued and in execution whereof the Respondent No. 2 Dy. Commissioner (West) issued the notice to the Petitioner asking the Petitioner to pay the amount and which notice is impugned in this petition. The Petitioner in the present petition has stated that the business of M/s B.C. Sood was of his father Shri B.C. Sood and of his younger brother Shri P.C. Sood and he had nothing to do with the same. He has thus contended that monies if any due in the implementation of the award cannot be recovered from him.

5. Notice of the petition was issued and subject to the Petitioner depositing Rs. 2,21,450/- in this Court the recovery proceedings against the Petitioner stayed. The said amount is informed to have been deposited. Counter affidavits have been filed by the Respondents.

6. The counsel for the Petitioner today states that he has not received the counter affidavit of the Respondent No. 1 and seeks time to rejoin thereto.

7. It may however be noticed that the Petitioner had failed to appear on 5th May, 2011 when the matter was listed last and finding that the Petitioner was enjoying the interim order in his favour the matter was kept for today. In view of the facts aforesaid need is not felt to adjourn the matter in as much as on the basis of the case of the Petitioner himself he is not found entitled to the relief.

8. Even if it were to be believed that the business of M/s. B.C. Sood was of the father of the Petitioner and his brother, the Petitioner on the demise of his father would be liable for the debts of his father. It is nowhere the case of the Petitioner that he has not inherited the estate of his father and for this reason is not liable for the debts of the father. Moreover, the Petitioner in response to the notices of the Labour Commissioner did not take the said stand and on the contrary assured that payment will be made. Though the Petitioner in this petition has sought to explain by contending that his Advocate was not authorized to say so but there is no plea of any action having been taken against the Advocate for having made statement aforesaid in the application without instructions. Moreover the Petitioner in the letter sent under his own signatures also had not taken the said plea. The Petitioner has also given his address as of the same property i.e. of D-17, Rajouri Garden, Delhi.

9. There is thus no merit in the petition.

10. The counsel for the Respondent No. 1 workman has stated that the amount

deposited in this Court will be received in full and final settlement of the award and the Respondent No. 1 workman shall not take any further steps for implementation of the award aforesaid or for recovery of any further amounts.

11. The writ petition is dismissed. The amount deposited in this Court together with interest accrued thereon be released forthwith to the Respondent No. 1 workman.

Litigation expenses have already been paid.