

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9139 OF 2003

STATE OF M.P. & ANR.

....APPELLANTS

VERSUS

OM PRAKASH SHARMA

....

RESPONDENT

O R D E R

This appeal is directed against the impugned judgment

dated 24.3.2003 passed by the High Court whereby the Civil

Revision filed by the petitioners herein was dismissed. Aggrieved

against that judgment, the present appeal was filed.

We have heard learned counsel for the parties and have

gone through the record.

It may be relevant to mention here that earlier a suit

bearing Civil Suit No. 38A/80 was filed by the plaintiff-respondent

(herein) before the Civil Judge Class II, Neemach, District

Mandsaur claiming his promotion from the post of Forest Ranger

to that of Additional Assistant Forest Conservator and all benefits

of promotion of the aforesaid post from 10.11.1978. This was

decreed by the trial court on 28.8.1986. Aggrieved against this

order, the petitioners-State preferred an appeal before the Madhya

Pradesh State Administrative Tribunal (hereinafter referred to as

'the Tribunal') which was dismissed on 30.8.1995. Thereafter,

the State filed a Review Application before the Tribunal. That

Review Application was also dismissed by the Tribunal on

5.5.1999. Thereafter a writ petition was filed before the High

Court which was also dismissed on 7.1.2002. Against that order, a

Special Leave Petition was filed by the State which came to be

dismissed by this Court on 12.3.2004.

Having failed in setting aside of the decree, the petitioners-

State filed objections under Section 47 Code of Civil Procedure in

the execution proceedings before the Executing Court which was

dismissed. Then again, the State filed objections which was also

dismissed on 20.2.2003. Again, the State filed a revision petition

before the High Court against the order dated 20.2.2003. The

High Court also dismissed this revision petition on 24.3.2003

holding that the order impugned in the revision does not suffer

from any illegality and perversity. Aggrieved against that impugned

judgment of the High Court, present appeal has been filed.

We directed the petitioners-State to file a statement

showing the total amount due to the plaintiff-respondent (herein)

and the State has given a detailed chart working out the total

amount due to the plaintiff-respondent (herein). According to the

chart, in pursuance of the decree passed by the trial court, an

amount of Rs. 404791.05 is due to the respondent. This amount

was deposited by the State before the executing court on

12.2.2007. This has not been disputed by the counsel for the

respondent. Prior to that, a warrant of attachment was issued by

the Executing Court on 22.4.2003 attaching the properties of the

State under the control of Collector, Neemuch. Thereafter, another

order of attachment was issued on 12.9.2005 for auctioning all the

properties of the State. Therefore, this led to I.A. No. 5 of 2005

being filed by the State before this Court

After having heard the learned counsel for the parties, we are of the opinion that it is a unfortunate case in which the State of Madhya Pradesh has not prosecuted the matter in the right earnest. As a result of their mishandling of the case, the State has been put to this sad state of affair. We do not want to further comment on this case because the facts speak volume for themselves. Be that as it may be, now we put a nice quietus to the whole litigation because a sum of Rs. 404791.05 has already been deposited in consequence of the decree passed by the trial court on 28.8.1986 but the amount which has been worked out in the decree as principal amount of Rs. 56 lakhs appears to be absolutely astronomical figure which has no relevance whatsoever in the present case. The decretal benefits was worked out by State due to the respondent after giving him a promotion to the post of Additional Assistant Forest Conservator and the consequential benefits therefrom. Though a detailed chart has been given by the

State working out the amount of Rs. 404791.05 but how this amount has been arrived at, has not been explained by the State. Let the State file a proper affidavit before the Executing Court giving the complete details how the amount in question has been worked out. The Executing Court shall consider whether the amount in question has been correctly calculated by the State or not. It will be open for the respondent-plaintiff to file a counter to the affidavit filed by the State before the Executing Court. The Executing Court after hearing both the parties will determine the amount and if it is found that the amount in question satisfies the decree, then it will dispose of the orders of attachment and discharge the State and if it finds that the amount in question has not been properly worked out and some more amount needs to be worked out, the same shall be worked out and the State shall satisfy the amount. The State may also resort to the proper method of appeal or otherwise as the case may be. This Appeal is disposed of with the aforesaid observations. The orders of attachment dated 22.4.203 and 12.9.2005 issued by the Executing Court stand

quashed. The petitioners-State shall file an affidavit stating therein

how they worked out the amount in question before the Executing

Court within six weeks from today and it will be open for the

respondent herein to file counter-affidavit if he so chooses in

another two weeks. Let the matter be taken by the Executing Court

after eight weeks.

This Appeal stands disposed of accordingly. No order as to

costs.

.....J.

[A.K. MATHUR]

.....J.

[LOKESHWAR SINGH PANTA]

NEW DELHI

MARCH 20, 2007

ITEM NO.101

COURT NO.9

SECTION IV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 9139 OF 2003

STATE OF M.P. & ANR.

Appellant (s)

VERSUS

OM PRAKASH SHARMA

Respondent(s)

(With office report)

Date: 20/03/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s) Ms. Vibha Datta Makhija,Adv.

For Respondent(s) Mr. Arun Bhardwaj, Adv.
Mr. Vijaiendra Nigam,Adv.
Dr. Kailash Chand,Adv.

UPON hearing counsel the Court made the following

O R D E R

Appeal is disposed of in terms of signed order with no order as
to costs.

(Pardeep Kumar)

Court Master

(Radha R. Bhatia)

Court Master

[SIGNED ORDER IS PLACED ON THE FILE]