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3.12.2010

Execution Application No.1570/2010  
In O.A.. No.51/2008

**Hon'ble Mr. Justice Alok Kumar Singh, M(J)**

Sri M.A. Siddiqui for applicant

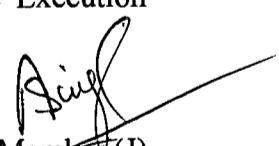
Heard the learned counsel for applicant and perused the execution application.

From the perusal of the final order dated 7<sup>th</sup> August, 2009 of this Tribunal, it transpires that the O.A. was allowed and the impugned orders contained in Annexure No. A-10, A-14 and A-15 were quashed. The respondents were directed not to enforce the recovery from the applicant of the amount covered under these orders.

In para 6 of this Execution Application, it is mentioned that respondents did not comply with the orders of this Tribunal instead they filed a writ petition before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench without serving notice to the applicant's counsel by adopting unfair practice. This averment itself appears to be misconceived. If a legal remedy is available to the respondents, they cannot be denied from availing that remedy. As far as filing of writ petition without service of the applicant's counsel is concerned, the writ petition has to be filed in accordance with the High court rules and there is no question of adopting an unfair practice. Broadly speaking, it can be said that it is only when an order is passed by the Hon'ble High Court in a newly filed writ petition, then only notice is sent to the other party. Therefore, the aforesaid averment is also misconceived.

Even the number of writ petition has not been mentioned in the Execution Application. Learned counsel for applicant says that he has now obtained the number of writ petition. Be that as it may. Concededly, no appearance has been put on behalf of the applicant in the Hon'ble High Court in that writ petition as told by the applicant counsel himself.

In para 9 of this execution application, it is mentioned that there is every possibility that with ulterior motive to harass the applicant, the respondents will not comply with the orders of this Hon'ble Tribunal.. This averment is based on apprehension which has no significance. Over and above, where is the question of non-compliance of the orders of the Tribunal. The only mandate in the final order of this Tribunal is that the respondents shall not enforce recovery from the applicant of the amount mentioned under the impugned orders contained in Annexures A-10, A-14 and A-15. There is no averment indicating as to what compliance has not been made. The only thing which the respondents can do in compliance of order of this Tribunal is not to enforce recovery , and there is no averment that they are making any recovery in defiance of Tribunal's order. In view of the above, I find that this Execution Application is misconceived and is accordingly rejected.

  
Member (J)

HLS/-

~~copy of answer~~  
dated 03-12-2010  
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09-12-2010