

Gujarat High Court

Union vs State on 27 August, 2010

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SCR.A/954/1999 1/ 4 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL
CRIMINAL APPLICATION No. 954 of 1999

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UNION
OF INDIA & 1 - Applicant(s)

Versus

STATE
OF GUJARAT & 1 - Respondent(s)

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Appearance

:

MR

JITENDRA MALKAN for

Applicant(s) : 1, MR HRIDAY BUCH for Applicant(s) : 1, GOVERNMENT

PLEADER for Applicant(s) : 2,

PUBLIC PROSECUTOR for Respondent(s)

: 1,

MR GULSHAN NASHA for Respondent(s) :

2,

=====

CORAM

:

HONOURABLE

MR. JUSTICE AKIL KURESHI

Date
: 27/08/2010

ORAL
ORDER

This petition is filed by the Union of India and Senior Post Master. They have challenged the order dated 3.7.96 passed by the learned Chief Judicial Magistrate, Nadiad in Criminal Case No.830/96 as upheld by the Sessions Court on 30th September 1997.

Briefly stated, facts are that 8 Indira Vikas Patras (IVP for short) bearing Sr.Nos.762597 to 762604 having total maturity amount of Rs.40,000/- and other 30 IVPs bearing Sr.Nos.988754 to 988783 having maturity amount of Rs.1,000/- each totaling an amount of Rs.30,000/- was the subject matter of a criminal case. The said IVPs were, therefore, seized by the police and were presented before the learned Magistrate. Since the IVPs were maturing, the learned Magistrate by his impugned order dated 3.7.96 handed over the custody thereof to respondent No.2 and directed that upon presentation with the Postal Department, the same shall be renewed.

The Postal Authority had serious objection to such direction for renewal since according to them, upon maturity of IVPs there was no provision for renewal of the investment. They, therefore, approached the Sessions Court by filing Criminal Revision Application. The revision application was dismissed for default. They, therefore, filed the present petition.

Unfortunately, though no stay was granted in favour of the petitioners, the direction of the learned Magistrate was not carried out and no reinvestment was made. Amount of Rs.70,000/- upon maturity was not returned to the original investor for years together. Thus, Rs.70,000/- upon maturity was not returned to the original investor for years together and remained with the Postal Department without any interest thereon.

Learned counsel for the petitioners stated that the petitioners are willing to return the said principal amount of Rs.70,000/- as would have been available to the investor upon maturity. He has brought a draft for the said amount. He stated that as soon as respondent No.2 approaches the Postal Authorities with original IVPs, the said amount will be released in his favour.

In view of the above stand, two minor issues remain to be tackled. First is the question of interest from the date of maturity till today. It is true that the amount was not reinvested. It may also be that there was no provision for reinvesting the same in IVPs. However, since the petitioners did not obtain stay against the order of the Magistrate, they were required to implement the same. There was no third option available to the petitioner. In any case, the amount of Rs.70,000/- has remained with them for nearly 15 years. They cannot escape the liability of payment of reasonable interest towards such delayed payment.

Second question is with respect to the availability of the original IVPs after such a long gap of time. In view of the above facts and circumstances, the petition is disposed of with following directions:

Amount of Rs.70,000/- (Rupees seventy thousand) shall be returned to respondent No.2 if he approaches the authorities with original IVPs. Such payment shall carry simple interest at the rate of 8% from 2.7.95 till today. It is clarified that from today onwards, the respondent No.2 shall not be entitled to any further interest.

It is further directed that in case respondent No.2 fails to produce the original IVPs, the payment shall be released in his favour on : (a) his establishing his identity and,

(b) giving an indemnity bond to the petitioners that in case the said amount is claimed by any other person, he shall return the amount to the petitioners.

The petition stands disposed of with the above observations and directions.

(Akil Kureshi, J.) (vjn) Top