

(1975) 07 AHC CK 0017**Allahabad High Court****Case No:** None

Purtabpur Company Ltd.

APPELLANT

Vs

C.P. Singh

RESPONDENT

Date of Decision: July 30, 1975**Citation:** (1976) CriLJ 359**Hon'ble Judges:** Hari Swarup, J**Bench:** Single Bench**Final Decision:** Dismissed**Judgement**

@JUDGMENTTAG-ORDER

Hari Swarup, J.

This application has been moved for taking an action in contempt against one C. P. Singh. He is an employee of the applicant's company. There was a labour dispute which ended into an award. The award held that the action of the employer was wrongful and unjustified and that C. P. Singh was ordered to be reinstated with continuity of service and he was also held entitled to full wages. Against the award the employer filed a writ petition. The writ petition was dismissed. A special appeal was filed and an interim order was granted in the appeal permitting the workman to withdraw half the amount which was to be deposited by the employer in accordance with the award on furnishing security. Thereafter an application was moved by the workman for modification of the order passed in Special Appeal. The order was clarified by a Bench of this Court to the following effect:♦

The order dated 14-2-1966 is clarified by stating that it will be open to the Labour Court to accept as security any amount standing as Provident Fund to the credit of Respondent No. 3 in the Books of the appellant Company or respondent No. 5. If such a security is forthcoming, the Labour Court will take a specific undertaking from respondent No. 3 that in the event of the appeal succeeding, the amount so paid be deducted from the Provident Fund.

The special appeal was ultimately allowed.

2. After the appeal was allowed the employer moved the Labour Court for realisation of the money out of the Provident Fund which was payable to it under the interim order of the Court. A notice was issued on that application to the workman. The workman filed objections. Those objections were accepted and the application of the employer to enforce the payment out of the Provident Fund money was rejected.

3. The employer has now filed the present application urging that the filing of objections by the workman amounts to contempt of this Court. I am not going into the merits of the question as to whether the amount is recoverable from out of the Provident Fund or not as such an enquiry is beyond the scope of the present proceedings. I have only to see if the respondent has wilfully disobeyed the order of the Court. It is difficult to accept that filing of objections can amount to contempt of Court. The undertaking given in the Labour Court in pursuance of die interim order of this Court may at the most amount to a decree for money. If the decree-holder moves an application before an executing Court or the authority entitled to get the money paid, and a notice is issued to the other side viz., the judgment-debtor to show cause or give a reply, it would not be right to hold that he should keep mum and should not put his case before the authority concerned. Merely filing of objections in response to a notice to show cause on the application for a relief made by any party cannot amount to committing contempt of the Court which had passed the decree. If that were not so, every objection raised in execution proceedings will amount to commission of contempt of Court, which could never be the intention of law as the filing of objections is specifically provided in the Code of Civil Procedure. In the circumstances, the filing of objections by the respondent cannot be deemed to amount to willful disobedience by him of the Court's interim order.

4. The respondent might have been in a position to disobey the order if he were in charge of paying the money but he could not be held liable if the making of payment was not in his power. The order rejecting the application for payment was passed by the Labour Court, the respondent had only raised objections. The respondent cannot accordingly be deemed guilty of committing contempt of this Court by wilfully disobeying its order, in pursuance of which he may have given the undertaking.

5. The application is accordingly dismissed.