

(2019) 02 UK CK 0007
Uttarakhand High Court
Case No: Writ Petition (PIL) No. 177 Of 2015

Jaya Prakash Dabral

APPELLANT

Vs

State Of Uttarakhand
& Others

RESPONDENT

Date of Decision: Feb. 14, 2019

Hon'ble Judges: Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench: Division Bench

Advocate: Jaya Prakash Dabral, Pradeep Joshi, B.D. Upadhyaya, Sunil Upadhyaya, A.S.
Rawat, Rakesh Thapliyal, Navin Tiwari, D.S. Patni

Judgement

Ramesh Ranganathan, CJ

1. Supplementary counter affidavit filed on behalf of the respondent no.6, as well as the supplementary affidavits filed on behalf of respondent nos.9

and 10, are taken on record. Applications (IA 1606/19, 1609/19 and 1616/19) are allowed accordingly.

2. It does not appear to be in dispute that the ninth respondent, who organized the Tour to South Africa, had submitted an invoice to the Govt. of

Uttarakhand on 1.7.2006 claiming to have spent a sum of Rs.6,88,926/-. It does not also appear to be in dispute that Mr. R.K. Tiwari (respondent

no.10) had paid Rs.10.00 lakh to the tour operator (respondent no.9).

3. While the ninth respondent claims to have repaid the balance amount of Rs.3,11,074/- to Mr. R.K. Tiwari on 1.7.2006 itself, receipt thereof is

denied by Mr. R.K.Tiwari. When we asked Mr. D.S. Patni, learned Counsel for respondent no.10, whether the ninth respondent had obtained any

receipt from the tenth respondent, on payment of the said amount to him on 1.7.2006, learned Counsel would answer in negative, and state that, while the amount was handed over, no receipt was obtained. While we were initially inclined to order a probe to ascertain whether, or not, these amounts were paid to Mr. R.K. Tiwari by the ninth respondent on 01.07.2006, we refrain from doing so in the light of the submission of Mr. D.S. Patni, learned Counsel appearing on behalf of the ninth respondent, that the ninth respondent would pay interest from 1.7.2006, when the invoice was submitted to the Govt., till 19.8.2006 when, even according to the third respondent, a sum of Rs.3,11,074/- was deposited. The ninth respondent shall pay interest on this sum of Rs.3,11,074/- at 12% per annum for a period of 1 month and 19 days i.e. from 01.07.2006 till 19.08.2008. An affidavit shall be filed by the ninth respondent before this Court, by the next date of hearing, furnishing details of the interest amount liable to be paid, and the mode and manner in which the said payment was made by them to the third respondent.

4. With respect to the balance amount of Rs.10 lakhs, the respondents seek to throw blame on Mr. R.K. Tiwari and contend that he had retained

Rs.10.00 lakh with him. Mr. R.K. Tiwari, on the other hand, denies having retained the amount, and claims to have paid this amount to Mr. G.S.

Pandey (respondent no.8). It is, however, not in dispute that it is the sixth respondent Mr. D.V.S. Khatri who had instructed the third respondent to give

Rs.20.00 lakh to Mr. R.K. Tiwari for the purpose of organizing this South African tour.

5. Mr. Rakesh Thapliyal, learned Counsel appearing on behalf of sixth respondent, on instructions from the sixth respondent, would submit that, while

the liability of the respondents to pay interest to the third respondent, for belated repayment of Rs.10.00 lakhs, is not in dispute, the person, on whom

this liability is to be fastened, needs to be ascertained. Mr. Rakesh Thapliyal, learned Counsel appearing on behalf of the sixth respondent, would

submit that, if this Court were to grant him liberty to recover the interest amount from the person liable to make payment thereof, the sixth respondent

would pay this interest amount to the third respondent. The said amount of Rs.10.00 lakhs, received by Mr. R.K. Tiwari from the third respondent on

30.06.2006 was repaid in installments from 29.3.2007 till 3.7.2012. The sixth respondent shall, therefore, pay cumulative interest at 12% per annum,

with yearly rests, for the belated payment of this amount, from 30.6.2006 till the date of actual payment of these amounts on different dates, to the third respondent. An affidavit shall be filed by the sixth respondent, by the next date of hearing, furnishing details of the manner in which the interest amount has been computed, and the mode and manner in which this amount has been paid by him to the third respondent. The third respondent shall also file an affidavit regarding receipt of the interest amount from respondent nos.6 and 9, including whether computation of their interest liability is in accordance with the aforesaid directions of this Court.

6. List this writ petition on 18.3.2019 by which date respondent nos.3, 6 and 9 shall file their respective affidavits.