(1999) 09 AHC CK 0127

In the Allahabad High Court

Case No : Writ Petition No. 2693 (M/S) of 1999

Asha Srivastava APPELLANT

Vs

Board of Revenue,U.P.Lucknow and Others RESPONDENT

Date of Decision : 28-09-1999

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 — Rule 285(1)

Citation : (1999) 09 AHC CK 0127

Hon'ble Judges : Naseemuddin, J

Final Decision : Dismissed

Judgement

Nassemuddin, J.—Court fee has been made good.

2. This writ petition has been filed by Sml. Asha Shrivastava under Article 226 of the Constitution of India for issuing a writ in the nature of certiorari for quashing the order dated 2581999 passed by Board of Revenue (Annexure No. 1) and order dated 651999, passed by the Addl. Commissioner, Gonda (Annexure No. 3) and for restraining the opposite parties No. 6 to 8 from taking over the possession of the agricultural land sold in auction.

3. Learned counsel for the petitioner was heard.

4. A recovery certificate was issued for realisation of the amount of the loan with interest, taken from the State Bank of India, against the petitioner Smt. Asha Shrivastava and against Rakesh Datt Chaturvedi who had borrowed money from the Bank. The immovable property of the petitioner was mortgaged. When the amount was not paid, then the property was attached, sold and the sale was confirmed and sale certificate was issued and the sale was complete. In the meantime. Writ Petition No. 496 (M/S) of 1997 was also filed which was also decided on 182'' 1997 and this Court had ordered for payment of money in instalments as per conditions in the order. Civil Suit was also filed hut no relief was given in that suit to the petitioner. Objections under Rule 2851 of U.P.Z.A & L.R. Act Tiled was time barred which were considered by the Addl. Commissioner

in Case No. 1/1/3 and those two objections were rejected by the impugned order dated 651999 and it was found that '' the auction sale was held in accordance with law. Two revisions were, therefore, filed by the petitioner before the Board of Revenue in which the matter was considered in detail and on 2581999 the two revisions were dismissed by the impugned order.

5. The learned counsel says that half of the amount was to be paid by her and half was to be paid by the person who had borrowed the money alongwith her. The liability of the two borrowers was joint and several. The learned Commissioner as well as the Board of Revenue found the objections under Rule285I to be barred by time and also held that the petitioner had full knowledge of the proceedings of auction and notice and Form Nos. 73 and 74 were duly served by refusal. It was held that the property was mortgaged property and was also attached. The facts and circumstances of t he case clearly show that the appellant knew every thing and sale etc. was all in her knowledge. The two Courts below after considering facts of the case about the knowledge and service of the relevant forms gave findings of fact. The objections were to be given within 30 days from the date of the sale but it was held that no objections were filed under Rule 2851 of the U.P.Z.A. & L.R. Act within the time allowed by law. The sale was properly published and conducted and no material irregularity could be pointed out. It was also observed that the petitioner was unable to prove that she had sustained any substantial injury. Since there was no irregularity or mistake in the sale, therefore, question of substantial injury did not also arise. The learned counsel referred to an application dated 1931998 moved to the effect that she was liable to pay only half (sic) but that application was not allowed and it was virtually rejected. The orders on this application were properly passed. The petitioner was liable to pay the entire amount under the recovery certificate. On the basis of the findings of fact the two Courts below found the objections to be not tenable and rightly rejected the objections. There does not appear to be any defect of jurisdiction in the impugned orders. The orders are correct. The sale has become complete and final sale. The Board of Revenue has mentioned that the material available on the file was perused. There is no ground to interfere in the impugned orders in this writ jurisdiction. Writ petition has got no force and is, therefore, dismissed. Petition dismissed.