
(2009) 02 AHC CK 0079

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 11374 of 2009

Ashif

APPELLANT

Vs

Board of Revenue U.P.At Allahabad and others

RESPONDENT

Date of Decision : 27-02-2009

Acts Referred:

Citation : (2009) 02 AHC CK 0079

Hon'ble Judges : Vikram Nath, J

Final Decision : Allowed

Judgement

Vikram Nath, J.—With the consent of the learned Counsel for the parties this petition is being finally heard at the stage of admission itself.

2. Heard learned Counsel for the petitioner, learned Standing Counsel for the respondent Nos. 1, 2, 3 & 5, Sri Anuj Kumar, Advocate representing respondent No. 4 and Sri Nafees Ahmad, Advocate representing respondent No. 6.

3. The petitioner filed Second Appeal before the Board of Revenue. Initially the Board of Revenue passed an order on 12th March, 2008 whereby it fixed 25th March, 2008 for hearing the appeal on admission and till then the parties were directed to maintain status quo. Thereafter several dates were fixed and the matter was adjourned and the interim order was continued. On 1st December, 2008, as the learned Counsel for the appellant sought adjournment, whereupon the Board of Revenue fixed 20.1.2009 but vacated the interim order. Thereafter, on 20.1.2009 again as the teamed Counsel for the appellant sought adjournment the Board of Revenue dismissed the appeal in limine on the ground that the learned Counsel for the appellant has chosen not to argue the case. It is against this order that the present writ petition has been filed.

4. The submission of the learned Counsel for the petitioner is that the order dismissing the appeal in limine without hearing the learned Counsel for the appellant is in violation of the principles of natural justice and fair play as the order suffers from vice of denial of opportunity. He has further submitted that as

the interim order had already been vacated, no prejudice was being caused to the respondents in the appeal and therefore, the adjournment ought to have been granted. He has further submitted that in case an opportunity is given, the Counsel for the appellant will argue the appeal on admission without seeking any further adjournment.

5. Learned Counsel for the respondents has tried to justify the order of the Board of Revenue and has submitted that the Board of Revenue recorded the reasons for dismissing the appeal in limine as the appellants had been seeking repeated adjournments.

6. Considering the facts and circumstances of the case, this Court is of the view that one last opportunity may be given to the petitioner to argue his appeal before the Board of Revenue on admission on the next date which is being fixed as 25.3.2009. All the parties shall appear before the Board of Revenue on the said date. Further liberty is given to both the parties to file a certified copy of this order before the Board of Revenue before the date fixed by this Court i.e. 25.3.2009 so that the record of the Board of Revenue is complete and is placed before the Court on the said date.

7. Accordingly the order of the Board of Revenue dated 20.1.2009 is set aside and the Writ Petition stands allowed as above. There shall however be no order as to costs.