
(1999) 04 AHC CK 0136

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 7119 of 1998

Bipin Chandra Sunal

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 22-04-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 04 AHC CK 0136

Hon'ble Judges : Binod Kumar Roy, J and Onkareshwar Bhatt, J

Final Decision : Dismissed

Judgement

Binod Kumar Roy and Onkareshwar Bhatt, JJ.—The prayer of the petitioner is to quash the citation notice issued by Sahkari Kurk Amin, Haldwani, Nainitalrespondent No. 4, as contained in Annexure 4 to the writ petition.

2, From the record of this writ petition including the counter affidavit filed by Respondent No. 2 Administrator, Kishan Sewa Sahakari Samiti Ltd., Haldwani it appears that in case No. 53of 198687, Kishan Sewa Sahakari Samiti Ltd., Haldwani v. Sri Vipin Chandra Sunal, the writ petitioner herein, the sole Arbitrator and District Assistant Registrar Cooperative Societies U.P., Nainital vide his order dated 1881987 as contained in Annexure CA1, decreed the claim of the aforementioned Cooperative Society alongwith interest to be recovered from the moveable and immoveable properties of the writ petitioner and pursuant to that order the recovery proceedings have been initiated.

3. The main thrust of the submission of Sri M.C. Kandpal, learned Counsel for the petitioner is that since the Criminal Case No. 617; of 1986, State of U.P. v. Bipin Chandra, under Section 182,1.P.C., Police Station Haldwani, was dismissed by the Judicial Magistrate, Haldwani, Nainital vide his order dated 451987, as contained in Annexure 2 to the writ petition, and that no notice was issued of the recovery proceedings, the petitioner is entitled to the reliefs claimed for by him.

4. In our view, the contention raised is misconceived and cannot be accepted.

Acquittal from a Criminal Court of the charge under Section 182, I.P.C. is entirely different than initiation of the recovery proceedings pursuant to an order passed by the sole Arbitrator District Assistant Registrar, Cooperative Societies, as contained in Annexure CA1. It is not the case of the petitioner that the order passed by the Assistant Registrar, Cooperative Societies, as contained in Annexure CA1, has been set aside or its operation stayed.

5. Accordingly, we do not find any justifiable reason to exercise our discretion under Article 226 of the Constitution of India.

6. For the reasons aforementioned we dismiss this writ petition without any order as to cost.

7. The office is directed to hand over a copy of this order to Sri H.R. Misra, learned Standing Counsel within two weeks for its intimation to the authorities concerned. Petition dismissed.