

(1982) 08 AHC CK 0049
In the Allahabad High Court
Case No : Civil Revision No. 49 of 1980

Chhedi Lal

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 26-08-1982

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Constitution of India, 1950 — Article 227
Land Acquisition Act, 1894 — Section 18

Citation : (1982) AWC 700

Hon'ble Judges : R.B. Lal, J

Bench : Single Bench

Advocate : B.B. Paul, for the Appellant;

Final Decision : Dismissed

Judgement

R.B. Lal, J.—This revision u/s 115, CPC is directed against the order dated 22-11-79 passed by the Land Acquisition Officer, Allahabad declining the applicant's request for making a reference u/s 18 of the Land Acquisition Act (briefly the Act) on the ground that the application was barred by time.

2. A preliminary objection has been raised to the maintainability of the revision and in that connection reliance has been placed on the decision Mohammed Hasnuddin Vs. State of Maharashtra, . Their Lordships of the Supreme Court considered a large number of decisions of various High Courts in this connection. They found that in some earlier decisions, the Calcutta High Court had taken the view that revision u/s 115, CPC was maintainable, while the view of the other High Courts including the Allahabad High Court was to the contrary. In this connection, inter alia, reference was made to the decision of the Allahabad High Court Kashi Parshad Vs. Notified Area . Their Lordships held that the view of the Calcutta High Court that the Collector was a court subordinate to the High Court was obviously wrong. The power of the Collector to make an order u/s 18 was not judicial in nature nor was the Collector a court subordinate to the High Court.

In view of this pronouncement it must be held that Section 115, CPC has no application and the revision is not maintainable.

3. The learned Counsel for the applicant has made an oral request for converting this revision into a writ petition under Article 227 of the Constitution of India but this course is also not open to me in view of another pronouncement of their Lordships of the Supreme Court in decision Vishesh Kumar v. Shanti Prasad 1980 AWC 263. Their Lordships observed : "a revision petition u/s 115 CPC is a separate and distinct proceedings from a petition under Article 227 of the Constitution and one cannot be identified with the other."

4. In view of the above, the revision deserves to be dismissed.

5. The revision is dismissed with costs. At the oral request of the learned Counsel for the applicant, it is directed that the office shall return certified copy of the order of the Land Acquisition Officer to the learned Counsel on his supplying a true copy of the same for which he is allowed three weeks time.