

(2009) 05 AHC CK 0523
In the Allahabad High Court

Gujar Tal Matsyajiwi Sahkari Samiti Ltd	APPELLANT
Vs	
State of U.P.& Others	RESPONDENT

Date of Decision : 11-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0523

Hon'ble Judges : Shishir Kumar, J

Final Decision : Disposed Of

Judgement

Shishir Kumar, J.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

It appears that earlier the petitioner was granted a lease right of fisheries in respect of Pond No. 440. Respondent no. 5 aggrieved by the aforesaid action of the respondent filed a writ petition before this Court as Writ Petition No. 50406 of 2008 which was finally disposed of after exchange of counter and rejoinder affidavits vide its order dated 22.10.2008 placing reliance upon the judgment of Full Bench of this Court in the case of Ram Kumar and others Vs. State of U.P. reported in 2005 (99) RD Page 823 and has set aside the allotment in favour of the petitioner. Now on the basis of the tender invited respondent no. 5 has been granted fisheries right.

The petitioner aggrieved by the aforesaid action has approached this Court stating therein that in spite of the fact that the petitioner has already deposited Rs. 50,000/ when the earlier contract was given in favour of the petitioner, that has been quashed by this Court. Now when the earlier rights were granted in favour of the petitioner, he has put various fishes in the pond, therefore, the authority concerned has passed an order that in case the petitioner wants to excavate the fishes from the pond, he has to deposit Rs. 50,000/ as the cost of the said fishes. The petitioner submits that the amount deposited by the petitioner has not been refunded and now a condition has been put to deposit Rs.

50,000/ in view of the excavation of fishes from the pond.

On the other hand, learned counsel for respondent no. 5 submits that the petitioner has already been given a liberty in the order passed by this Court that the petitioner can make an application to this effect. In the order passed by the competent authority dated 26.12.2008, it has also been mentioned that if such an application is filed by the petitioner for the purpose of excavation of the fishes or to refund the amount, that may be considered by the competent authority.

After hearing learned counsel for the parties, I am of opinion that the petitioner is not aggrieved regarding the grant of lease in favour of the respondent. He is having the grievance to this effect that he has been directed to deposit Rs. 50,000/ in lieu of excavation of fishes from the pond which he had put during the period when the earlier contract was given to the petitioner.

In my opinion, this order has only been passed giving a facility to the petitioner that in case the petitioner is willing to take out the fishes from the pond which he had put during grant of earlier lease cancelled by this Court, in that situation, the petitioner has to deposit Rs. 50,000/. In case the amount deposited by the petitioner to the tune of Rs. 50,000/ is with the authority, it is open to the petitioner to make an application for adjustment or for refund of the said amount. Therefore, in my opinion at this stage the petitioner cannot be granted any relief.

The writ petition is disposed of accordingly.

No order is passed as to costs.