(2014) 11 AHC CK 0196

In the Allahabad High Court

Case No : C.M.W.P. No. 63406 of 2014

K.K. Paddy Products and Others APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 25-11-2014

Acts Referred:

Citation : (2015) 109 ALR 294 : (2015) 127 RD 365

Hon'ble Judges : Tarun Agarwala, J;Dinesh Gupta, J

Bench : Division Bench

Advocate : Rahul Agarwal, Advocates for the Appellant; V.B. Mishra, Advocates for the Respondent

Judgement

Tarun Agarwala and Dinesh Gupta, JJ.—We have heard Sri Rahul Agarwal, the learned Counsel for the petitioners and Sri V.B. Mishra, the learned Counsel for respondent Nos. 2 and 3. The petitioner is engaged in hulling of paddy. In this regard, recovery proceedings were initiated against the petitioner and other similarly situated paddy hullers. A large number of writ petitions were filed, which was dismissed by a judgment dated 24th February, 2014 in Writ Petition No. 35296 of 2013, M/s. Bhawani Rice Mill and others v. State of U.P. and others. The writ Court directed the petitioners'' to pay an amount of Rs. 1,611.93 per quintal to the State Government within one month from the date of the decision of the High Court and also directed the petitioners to raise a dispute before an Arbitrator under the arbitration clause of the agreement entered between the parties. This order has not been complied with by the petitioners till date.

2. On the other hand, we find that the petitioner has approached the Supreme Court and has filed a special leave petition and, according to the submission of the learned Counsel for the petitioner, his special leave petition is pending before the Supreme Court. However, the Court has been informed that a large number of special leave petitions were filed against the decision of this Court dated 24th February, 2014, which has been dismissed by an order dated 9th May, 2014 in SLP No. 12034-12109 of 2014. The Supreme Court while dismissing the special

leave petitions directed the appellants to deposit the price of Custom Mill Rice as decided by the High Court by 15th June, 2014 failing which the appellants would be liable to pay interest at the rate of 12% from due date till the amount was paid. Even though, this decision is not applicable to the petitioners'' case as his SLP is still pending, nonetheless, the decision of this Court has been affirmed by the Supreme Court.

3. It transpires that even this direction of the Supreme Court has not been complied with and, consequently, a recovery citation was issued against the petitioners, who approached the Writ Court by filing Writ Petition No. 31937 of 2014, which was dismissed as withdrawn by an order dated 26th July, 2014.

4. According to Sri Rahul Agarwal, the learned Counsel for the petitioner subsequent to this order, the respondents realized the practical difficulties of the rice millers with regard to paying the amount. In this regard, the Additional Commissioner is alleged to have issued a letter dated 6th August, 2014 to the Commissioner, Food and Civil Supplies bringing this fact to the knowledge of the Commissioner and requesting him to grant time to the paddy hullers till 30th August, 2014 to pay 25% of the due amount and balance in three annual installments.

5. It transpires that the petitioner filed an application praying that he may be allowed to pay the amount in terms of the letter of the Additional Commissioner dated 6th August, 2014. According to the petitioners, this application is pending consideration and without passing any appropriate orders and without allowing the petitioners to pay the amount as per the schedule fixed by the Additional Commissioner, auction proceedings has been initiated and today is the date fixed for auction. The petitioner has, accordingly, approached this Court praying that some breathing time may be given so that he could pay the amount and, in the meanwhile, his representation could be decided by the authority concerned.

6. Having heard the learned Counsel for the petitioner at some length, we find that the letter of the Additional Commissioner dated 6th August, 2014 is an internal correspondence with the Commissioner and is not a circular issued by the State Government or its agencies permitting rice millers to pay the amount in installments. We find that equity is not in favour of the petitioner, inasmuch as the petitioner has approached the Writ Court on various occasions at various stages for the same cause of action. The petitioner had initially filed the writ petition, which was dismissed by a judgment dated 24th February, 2014 wherein a specific direction was given to pay the price of CMR at the rate of Rs. 1,611.93 per quintal with the State Government within a period of one month from the date of the decision of the High Court and raise a dispute for the balance amount before the arbitration. This order of the Writ Court has not been complied with. This order has been affirmed by the Supreme Court in some of the SLPs filed by the paddy hullers. Against the recovery citation, the petitioner approached the Writ Court and had to withdrawn on account of the specific directions of this Court in its judgment dated 24th February, 2014.

7. At this stage when auction proceedings have been initiated and today is the date fixed, it is no longer open to the petitioner to contend that he is ready and willing to pay the entire amount in installments as per the letter dated 6th August, 2014 of the Additional Commissioner, which is neither a circular nor any specific decision has been taken by the State authorities.

8. Consequently, we are of the opinion that the petitioner has no valid case for grant of any relief by this Court. The writ petition fails and is dismissed at the admission stage itself.