

**(2000) 11 AHC CK 0134**

**In the Allahabad High Court**

**Case No :** Criminal Miscellaneous Writ Petition No. 6215 of 2000

Krishna Murari Agrawal alias Deepak

APPELLANT

Vs

District Magistrate, Jhansi and Others

RESPONDENT

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**Date of Decision :** 06-11-2000

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2001) CriLJ 949

**Hon'ble Judges :** U.S. Tripathi, J;G.P. Mathur, J

**Bench :** Division Bench

**Advocate :** Udai Karan Saxena, for the Appellant;

**Final Decision :** Dismissed

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## **Judgement**

1. The property of the petitioner was attached u/s 14(1) of the U.P. Gangsters & Anti-Social (Activities) Prevention Act 1986 by order of the District Magistrate, Jhansi.
2. The petitioner made a representation against the order of attachment u/s 16(1) of the said Act. The District Magistrate by his order dated 12-10-2000 rejected the representation and referred the matter with his report to the Special Judge (Gangsters Act) in accordance with Section 16(1) of the Act. It is this order which is subject-matter of challenge in the present writ petition.
3. We have heard Sri. UK Saxena, learned counsel for the petitioner at considerable length and have perused the record.
4. The question whether the property attached has been acquired by a gangster as a result of the commission of an offence under U.P. Gangsters & Anti-Social Activities Prevention Act, 1986 is a pure question of fact. The claim of the petitioner that the property has not been acquired by commission of an offence or that it is an ancestral property can only be established by appraisal of the evidence. It will be open to the petitioner to lead oral and documentary evidence in support of his claim before the Special Judge (Gangsters Act) where the

matter has been referred. Such appraisal of evidence is not possible in the present proceedings under Article 226 of the Constitution of India. The Act provides a complete machinery as against the decision of the Court an appeal lies u/s 18 of the Act.

5. In these circumstances we do not consider it a fit case for interference under Article 226 of the Constitution of India.

6. Learned counsel for the petitioner has submitted that the house of the petitioner has been attached and he is suffering great hardship and, therefore, a direction may be issued to the Special Judge concerned to decide the proceedings at an early date.

7. Taking into consideration the entire facts and circumstances of the case, it is directed that the proceedings referred to the Special Judge by the District Magistrate u/s 16(1) of the Act shall be concluded as expeditiously as possible preferably within three months of the filing of a certified copy of this order before the Court concerned. It is understood that the petitioner will co-operate with the enquiry and will not seek adjournments unless absolutely necessary.

8. Subject to the observations made above, the writ petition is dismissed.