
(2016) 05 AHC CK 0177
In the Allahabad High Court
Case No : Writ-C No. 40635 of 2002

M/S Suresh Chandra Varshney

APPELLANT

Vs

Rajkiya Audyogic Evam Krishi Pradarshani & Ors.

RESPONDENT

Date of Decision : 26-05-2016

Acts Referred:

Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 — Section 3

Citation : (2016) 6 ADJ 339 : (2016) 6 AllWC 6498

Hon'ble Judges : Sudhir Agarwal and Shamsheer Bahadur Singh, JJ.

Bench : Division Bench

Advocate : J.J. Munir, Advocate, for the Appellant; C.S.C, for the Respondent

Final Decision : Allowed

Judgement

1. Heard Sri J.J. Munir, learned counsel for petitioner and perused the record.

2. It is contended that Exhibition Committee, though is managed personally by officers of District Administration but in fact it is a private registered society and neither a Department of Government nor Corporation. It is also not incorporated in statute. Therefore, respondents have no authority to recover amount payable by petitioner to above society, as arrears of land revenue and demand of recovery of aforesaid amount as arrears of land revenue is patently without jurisdiction since Section 3 of Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 (hereinafter referred to as "Act 1972") has no application.

3. In the counter affidavit filed by respondents status of Exhibition Committee has not been replied at all.

4. Section 3 of Act 1972 reads as under:-

"Recovery of certain dues as arrears of land revenue-

(1) Where any person is party-

(a) to any agreement relating to a loan, advance or grant given to him or

relating to hire purchase or goods, sold to him by the State Government or the Corporation, by way of financial assistance ; or

(b) to any agreement relating to a loan, advance or grant given to him or relating to credit in respect of, or relating to hire purchase of goods sold to him, by a banking company or a Government Company, as the case may be, under a sponsored scheme, or

(c) to any agreement relating to a guarantee given by the State Government or the Corporation in respect of a loan raised by an industrial concern; or

(d) to any agreement providing that any money payable thereunder to the State Government shall be recoverable as arrears of land revenue; and such person

(i) makes any default in repayment of the loan or advance or any instalment thereof; or

(ii) having become liable under the conditions of the grant to refund the grant or any portion thereof, makes any default in the refund of such grant or portion or an instalment thereof, or

(iii) otherwise fails to comply with the terms of the agreement, then, in case of the State Government, such officer as may be authorised in that behalf by the State Government by notification in the Official Gazette, and in the case of the Corporation or a Government Company the Managing Director (or where there is no Managing Director then the Chairman of the Corporation, by whatever name may be authorised in that behalf by the Managing Director or the Chairman) thereof, and in the case of a banking company, the local agent, thereof, by whatever name called, may send a certificate to the Collector, mentioning the sum due from such person and requesting that such sum together with the costs of the proceedings be recovered as if it were an arrear of land revenue.

(2) The Collector on receiving the certificates shall proceed to recover the amount stated therein as an arrear of land revenue.

(3) No suit for the recovery of any sum dues as aforesaid shall lie in the civil court against any person referred to sub-section (1).

(4) In the case of any agreement referred to in Sub-section (1) between any person referred to in that sub-section and the State Government, or the Corporation, no arbitration proceedings shall lie at the instance of either party either for recovery of any sum claimed to be due under the said sub-section or for disputing the correctness of such claim:

Provided that whenever proceedings are taken against any person for the recovery of any such sum he may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed and the person against whom such proceedings were taken may make a reference under or otherwise enforce an arbitration agreement in respect of the amount to be paid, and the provisions of Section 183 of the Uttar Pradesh Land

Revenue Act, 1901, or Section 287-A of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, as the case may be, shall mutatis mutandis apply in relation to such reference or enforcement as they apply in relation to any suit in the civil court."

5. It is admitted by learned counsel for parties that Section 3 (1) (a) to (c) of Act 1972 are not at all applicable in the present case.

6. Now we come to Section 3 (1) (d). If there was any agreement to recover amount as arrears of land revenue with "State Government" or "Corporation" recovery as arrears of land revenue under Act 1972 could have been made.

7. The term "Corporation" has also been explained in Section 2 (a) of Act 1972, as under:-

"(a) "Corporation" means the Uttar Pradesh Financial Corporation established under the State Financial Corporation Act, 1951, and includes any other Corporation owned or controlled by the Central Government or the State Government and specified in a notification issued in that behalf by the State Government in the Official Gazette."

8. It is not case of respondent that Exhibition Committee is a "Corporation" under Section 2 (a) or a department of government. The learned Standing Counsel could not dispute that it is a private society.

9. In view there of, mere fact that a condition has been imposed that amount payable to society can be recovered as arrears of land revenue it would not authorised a private body to recover its own dues as arrears of land revenue by conferring such power upon itself. It cannot be done.

10. The writ petition is accordingly allowed. Impugned recovery certificate dated 04.09.2002 is set aside. However, this order shall not preclude Exhibition Committee from recovering its dues by availing such remedy as available in common law.