
(2011) 05 AHC CK 0087
In the Allahabad High Court
Case No : C.M.W.P. No. 25376 of 2011

Pradeep Kumar Vishwakarma

APPELLANT

Vs

State of U. P. and others

RESPONDENT

Date of Decision : 23-05-2011

Acts Referred:

Citation : (2011) 5 AWC 4952

Hon'ble Judges : Satya Poot Mehrotra, J;Rajesh Chandra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satya Poot Mehrotra and Rajesh Chandra, JJ.—The petitioner took loan from respondent No. 2 for purchasing a truck. The petitioner committed default in payment of loan. Subsequently, the truck was repossessed by the respondent No. 2. The respondent No. 2 is now proceeding to make sale/auction of the truck in accordance with the terms and conditions of the agreement between the petitioner and the respondent No. 2.

2. The petitioner has filed present writ petition inter alia praying for directing respondent No. 2 to release truck in favour of the petitioner after taking entire instalments due.

3. We have heard Sri P. K. Kashyap, learned counsel for the petitioner.

4. From perusal of averments made in the writ petition, it is evident that respondent No. 2 is a Company registered under the Companies Act, 1956. Respondent No. 2 is not Government Company nor respondent No. 2 come within the definition of "State" under Article 12 of the Constitution of India. No violation of statutory duty on the part of respondent No. 2 has been shown. Transaction between petitioner and respondent No. 2 is purely commercial. In such circumstances, writ petition filed by the petitioner against respondent No. 2 is not maintainable and the same is liable to be dismissed.

5. The writ petition is accordingly dismissed as not maintainable.

However, this order will not come in the way of the petitioner in seeking appropriate relief by pursuing remedy before appropriate forum.