
(2009) 08 AHC CK 0157
In the Allahabad High Court
Case No : Writ Petition No.6896 (M/B) of 2009

Radha Rani Cold Storage Pvt.Ltd.	Vs	APPELLANT
U.P.State Cold Storage Tribunal and Others		RESPONDENT

Date of Decision : 07-08-2009

Acts Referred:

Citation : (2009) 08 AHC CK 0157

Hon'ble Judges : Rajiv Sharma, J and Anil Kumar, J

Final Decision : Disposed Of

Judgement

1. Notice on behalf of respondent Nos.1 to 3 has been accepted by the learned Chief Standing Counsel.
2. With the consent of learned counsel for the parties, this writ petition is being disposed of, at the admission stage.
3. It has been stated by the Counsel for the petitioner that the opposite party No.2/District Magistrate was not competent to issue the recovery citation dated 25.6.2009. Further, he submits that the petitioner had already filed an appeal under Section 36 of the U.P. Regulation of Cold Storages Act, 1976 before the U.P. State Cold Storage Tribunal/opposite party No.1 and the said appeal was admitted vide order dated 3.6.2009. Further, the opposite parties 2 and 3 had full knowledge of the appeal filed by the petitioner before the Tribunal, yet the opposite parties 2 and 3 had initiated recovery proceedings against the petitioner.
4. According to the petitioner, under Section 25(2) of the Act, the opposite parties could not have issued certificate of recovery till final decision in the appeal preferred by the petitioner before the Tribunal.
5. The grievance of the petitioner is that though the appeal filed by the petitioner before the Tribunal had been admitted, but the Tribunal refused to grant interim relief causing serious prejudice to the petitioner.
6. Hon''ble the Apex Court in the case of Mool Chand Yadav and another v. Raza

Buland Sugar Co. Ltd., Rampur and others, (1982) 3 SCC 484, has observed that during the judicial approach requires that during the pendency of the appeal, the operation of an order having serious civil consequences must be suspended, more so when appeal is admitted. The aforesaid proposition of law has been reiterated by this Court in the case of Daroga and another v. Commissioner, Gorakhpur Division, Gorakhpur, 1996 (14) LCD 540, wherein this Court has held that it is established principle of law that during the pendency of appeal where right of parties are yet to be adjudicated, the interim orders may be passed in order to preserve the situation.

7. For the reasons stated above, the U.P. State Cold Storage Tribunal is directed to decide the appeal, in accordance with law, within a maximum period of three months, from the date of receipt of a certified copy of this order. It is further directed that the petitioner shall cooperate in the hearing of the appeal.

8. Till disposal of the appeal, the recovery citation dated 25.6.2009 (Annexure No.1 to the writ petition and the order dated 17.4.2009 passed by the District Magistrate shall be kept in abeyance.

9. With these observations, the writ petition is finally disposed of.