
(2009) 05 AHC CK 0490
In the Allahabad High Court

Rajesh Kumar Singh	Vs	APPELLANT
State of U.P.& Others		RESPONDENT

Date of Decision : 25-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0490

Hon'ble Judges : Shishir Kumar, J

Final Decision : Disposed Of

Judgement

Shishir Kumar, J.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The controversy involved in the present writ petition raised by the petitioner is that the order passed by the Revisional Authority filed by the respondents dated 27.6.2008 is an order exparte without affording opportunity to the petitioner. A specific averment has been made in para 19 to this effect in the writ petition which is quoted below:

"That the respondent no. 2 had passed the order dated 27.6.2008 without summoning the record and without providing opportunity of hearing to the petitioner who is the auction purchaser of tractor in lieu of Rs. 1,28,000/ which he had deposited immediately after the auction. Thus the impugned order is highly against the established procedure and the principle of natural justice."

The facts arising out of the writ petition are that respondent no. 5 was the owner of the tractor purchased from Union Bank, District Mau. He failed to deposit the installment. As such, on the request made by the bank, the Collector concerned has issued a recovery notice to respondent no. 5 to pay the said loan. The same was not paid, as such the tractor in dispute was auctioned. The petitioner being a highest bidder, the auction sale was terminated in favour of the petitioner. The petitioner deposited the total auction money and the property i.e. the tractor was handed over and the petitioner is still in possession of the said property.

Respondent no. 5 aggrieved by the aforesaid order filed a revision. The Revisional Court without issuance of any notice to the petitioner and without affording an opportunity, has allowed the revision and directed respondent no. 5 putting a condition that in case the total amount including interest is deposited by 14.7.2008, the tractor in question be returned to respondent no. 5 treating the auction sale as null and void.

Learned counsel for the petitioner submits that the petitioner being the highest bidder bona fide purchased the said tractor in auction and deposited the money. The auction sale was confirmed in favour of the petitioner and he is in possession of the said property. There is no occasion by the Revisional Court to give this property, that too without issuance of any notice and affording any opportunity. The specific averment made in the writ petition has not been denied in the counter affidavit filed by respondent no. 5.

After hearing the learned counsel for the parties and after perusal of the record, it is apparent that no notice has been issued to the petitioner before passing the order dated 27.6.2008 by respondent no. 2. The specific averment made in the writ petition has not been controverted and denied by the respondent. Therefore, there is a clear presumption that the said order is apparently *ex parte* without any notice and opportunity to the petitioner. It is well settled in law that the authorities are bound to follow the principles of natural justice. The order dated 27.6.2008 is in clear violation of the principle of natural justice as the same has been passed without any opportunity to the petitioner.

In view of the aforesaid fact, the writ petition is allowed. The order dated 27.6.2008, Annexure 8 to the writ petition is hereby quashed and the matter is remanded back to the Revisional Court i.e. respondent no. 2 to pass appropriate order after affording fullest opportunity to the petitioner in accordance with law by a speaking and reasoned order.

As the matter is being litigated between the parties from 2005, as such, it will be appropriate that respondent no. 2 shall decide the matter finally within three months from the date of production of certified copy of this order before him. Writ petition is disposed of accordingly.

No order is passed as to costs.