
(1999) 05 AHC CK 0168
In the Allahabad High Court
Case No : C.M.W.P. No. 20605 of 1991

Ram Sumer Puri

APPELLANT

Vs

Bhumi Sanrakshan Adhikari, Ghazipur and another

RESPONDENT

Date of Decision : 13-05-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 3 AWC 2288

Hon'ble Judges : Lakshmi Behari, J;D.S. Sinha, J

Bench : Division Bench

Advocate : P.N. Tripathi, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—Heard Shri P. N. Tripathi, learned counsel appearing for the petitioner and Sri Sabha Jeet Yadav, learned standing counsel of the State of U. P., representing the respondents.

2. A sum of Rs. 6,154.80 is being recovered from the petitioner through the citation dated 9th July, 1991, a copy whereof is Annexure-1 to the petition. This writ petition has been filed by the petitioner to challenge the legality of the citation and for quashing thereof.

3. The principal contention of the petitioner is that under the alleged Debt Relief Scheme of the year, 1990, the State Government have given rebate upto Rs. 10,000 for any loan advanced by any bank or cooperative society or Government itself, and amount sought to be recovered being below Rs. 10,000 is covered by the said Scheme. Therefore, the impugned recovery cannot be effected.

4. Admittedly, the money sought to be recovered from the petitioner is not any loan advanced by any bank or co-operative society or Government itself, but, according to the petitioner himself the money sought to be recovered is due from him for the service rendered on behalf of the Government in connection with the levelling of his land through the tractor belonging to the Government.

5. In support of the contention that the petitioner is entitled for the benefit of alleged Debt Relief Scheme, the petitioner has not filed or produced before the Court any such Scheme. Therefore, no advantage of the alleged Scheme can be held to be available to the petitioner.

6. In view of the admitted position that the money in connection with the levelling of the land of the petitioner is due, there appears to be no justification for allowing the petitioner to withhold the same. The demand of Justice and equity is that the money due from the petitioner must be paid by him. Even if the mode adopted for the recovery of the amount due suffers from some illegality, the Court ought not to exercise its extraordinary and equitable jurisdiction under Article 226 of the Constitution of India in favour of the petitioner inasmuch as by doing otherwise, the Court would be allowing its Jurisdiction to be abused defeating justice. This jurisdiction of the Court is not meant for helping unscrupulous loan evaders and dodgers. No equity exists in favour of a person defaulting repayment of debts which is, admittedly, due from him.

7. For the foregoing reasons, the Court is of the opinion that it is not a fit case where the Court should exercise its special, extraordinary and equitable jurisdiction under Article 226 of the Constitution of India in favour of the petitioner. It, therefore, declines to interfere in the matter.

8. In the result, the petition fails and is hereby dismissed. The interim order dated 2nd August, 1991 is vacated.