
(1994) 02 AHC CK 0031

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 11622 of 1993

Seeta Ram Mallah

APPELLANT

Vs

Sub Divisional Officer and Others

RESPONDENT

Date of Decision : 14-02-1994

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1994) 1 AWC 532

Hon'ble Judges : Vijay Bahuguna, J

Bench : Single Bench

Advocate : Shayamal Narain, for the Appellant; M.D. Singh Shekhar, for the Respondent

Final Decision : Dismissed

Judgement

Vijay Bahuguna, J.—Heard counsel for the Petitioner, counsel appearing for the State and the counsel for Respondent No. 3.

2. The Petitioner prays for the issuance of a writ of certiorari for quashing the order dated 1 -- 2-1992 granting lease in respect of the pond in dispute in favour of Respondent No. 3 for exercising fishing rights. He further prays for quashing of the approval order dated 13-2-1992 passed by the Sub Divisional Officer, Sadar, district Gorakhpur with a further direction that the existing lease in favour of the Petitioner be renewed.

3. The Petitioner had a lease in respect of the pond in dispute from 31-1-1992 to 31-1-1992 and on 2nd January, 1992 an auction was held in which the Respondent No. 3 was the highest bidder. The bid of be Respondent No. 3 was approved by the Respondent No. 1 by his "order dated 13-2-1992 and the agreement was executed with the Respondent No. 3 on 9-6-1992 and requisite instalments were paid by him. After the execution of the agreement the Respondent No. 3 made substantial investments. The Petitioner preferred a revision before the Commissioner against the grant of lease in favour of

Respondent No. 3, which was rejected.

4. Without going into merits of the contentions raised in the writ petition, this Court is of the view that the Petitioner is not entitled to any relief under Article 226 of the Constitution as he has not approached this Court with clean hands. In the instant writ petition he has concealed the fact that he had filed a Suit No. 336 of 1992 in the Court of Munsif, Gorakhpur, on the same cause of action and had prayed for an injunction which was refused by the Munsif on 15-4-1992. Against the said order the Petitioner had filed a Misc. Appeal before the District Judge, Gorakhpur wherein no interim injunction was granted. These facts were withheld from the Court and the assertions to this effect made in paragraph 3 (K) of the counter-affidavit have not been denied in the rejoinder-affidavit. For the above reason and also for the reason that the lease has already been executed in favour of Respondent No. 3 on 9-6-1992 and he has paid instalments and has invested money in the breeding of fishes, the Petitioner has failed to make out any case for interference by this Court under Article 226 of the Constitution. ?

5. The petition fails and is dismissed. The interim order is discharged. There shall, however, be no order as to costs.