(2016) 03 SC CK 0044

In the Supreme Court Of India

Case No : Civil Appeal No. 2312 of 2016(@ Special Leave Petition (C) No. 5112 of 2014)

Shaukat Ali (D) By Lrs. APPELLANT

Vs

Ameer Ullah Ansari RESPONDENT

Date of Decision : 01-03-2016

Acts Referred:
Constitution of India, 1950 — Article 133
Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 — Rule 285-I

Citation : (2016) 03 SC CK 0044

Hon'ble Judges : Madan B. Lokur;N.V. Ramana, JJ.

Bench : Division Bench

Advocate : S.R. Singh, Sr. Adv, Avnish Singh, Ms. Ujjawal Pandey, Ms. Vandita Rai, Ms. Asha Gopalan Nair, Advocates, for the Respondent

Final Decision : Allowed

Judgement

1. Leave granted.

2. We have heard learned counsel for the parties.

3. In the present case, an auction sale had taken place on 28.06.1979. The predecessor of the appellants deposited 1/4th of the bid amount on the very same day and the balance 3/4th of the bid amount on 16.07.1979. The auction was confirmed and a sale certificate was issued thereto in favour of the predecessor of the appellants on 20.09.1979. According to learned counsel for the appellants, the predecessor of the appellants was put in possession of the land in question.

4. On 25th October, 1979, the son of respondent No.2 (owner of the land) moved an application under Rule 285-I of the Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 (for short ''the Rules'') objecting to the sale. Respondent No.2, who was the owner of the land, also filed objections to the auction sale along with an application for condonation of delay on 13.01.1981.

According to learned counsel for the appellants, the objections filed by the son of respondent No.2 as well as respondent No.2 were barred by time and the delay in filing the objections was not condoned. The objections were rejected by the Commissioner, Gorakhpur and against that a revision petition was filed by the respondents which too was dismissed by the Board of Revenue.

5. Feeling aggrieved, the respondents preferred a writ petition in the Allahabad High Court which remanded the matter to the Board of Revenue for its re-consideration. In the second round, the Board of Revenue upheld the objections and set aside the auction sale.

6. Feeling aggrieved, the appellants preferred a writ petition No. 27528 of 1996 in the Allahabad High Court which came to be dismissed by the impugned order dated 24.10.2013.

7. We have gone through the records of the case and find that on both occasions the Board of Revenue did not examine the question whether the delay in filing the objections under Rule 285-I of the Rules ought to be condoned or not. In fact, this matter has completely escaped consideration by the Board of Revenue.

8. Under the circumstances, we have no option but to set aside the order passed by the High Court as well as the order passed by the Board of Revenue and remand the matter to the Board of Revenue for a fresh adjudication on the merits of the case after determining whether the objections were barred by time and whether the delay in filing the objections deserves to be condoned or not. Since the matter is quite old, we request the Board of Revenue to decide the matter at the earliest.

9. The appeal is allowed with no order as to costs.

