

(1996) 08 AHC CK 0067

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4936 of 1993

Shiv Pal and Ors.

APPELLANT

Vs

Addl. District Judge, Karvi Banda & Ors.

RESPONDENT

Date of Decision : 09-08-1996

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 330(c)

Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 — Rule 285(1), 285H

Citation : (1996) 08 AHC CK 0067

Hon'ble Judges : M.Katju, J

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned judgment dated 24.12.1992, contained in Annexure IV to the writ petition.

2. I have heard learned counsel for the parties.

3. It appears that respondents No. 3 & 4 filed suit for cancellation of auction sale dated 24.8.85 and its confirmation order dated 2.1.86 in favour of the petitioners. A true copy of the plaint has been annexed as annexure I to the writ petition. The auction sale was held in pursuance of the recovery as arrears of land revenue against respondents No. 3 & 4. The trial court by order dated 27.4.92 held that the suit was maintainable and this order was upheld by the lower appellate court by order dated 24.12.92. Hence this petition.

4. Learned counsel for the petitioners invited my attention to Section 330 (c) of U.P. Zamindari Abolition Act which says that no suit shall lie in any civil court in respect of assessment or collection of land revenue or recovery of any sum or money recoverable as arrears of land revenue. This provision clearly bars the suit. The remedy of a person regarding auction sale in pursuance of recovery as arrears of land revenue is given in the U.P. Zamindari Abolition Act and Rules particularly under Rules 285(H) and 285(I). Hence the person cannot file a civil suit when specific remedy has been provided under the aforesaid rules.

5. Hence in my opinion the suit was clearly barred. Hence I allow this petition. The impugned orders dated 27.4.92 and 24.12.92 are quashed. No order as to costs.