(1978) 01 AHC CK 0034

In the Allahabad High Court

Case No : C.M.W. No. 139 of 1975

SHYAM SUNDER KANODIA — APPELLANT

Vs

STATE OF U.P. and Others — RESPONDENT

Date of Decision : 13-01-1978

Acts Referred:

Citation : (1978) 7 CTR 222

Hon'ble Judges : Satish Chandra, J

Bench : Division Bench

Judgement

Satish Chandra, J. - The petitioner prays that he be not arrested in the proceedings for recovery of arrears of sales-tax. This prayer is based on paragraph No. 10 of the Writ Petition stating that on 12th February, 1975 the Kurk Amin and Naib Tahsildar of the Sales Tax (Collection) took warrants of arrest of the petitioner to his house for not paying the sales-tax dues. The petitioner was not present and, therefore, he could not be arrested. The contents of this paragraph have been denied in the counter affidavit where it has been stated that no such warrant had been issued. In paragraph No. 11 it has been stated that no warrant of arrest had been issued against the petitioner. It cannot hence be said that a warrant had been issued against him. The question of grant of relief prayed for does not arise. Learned counsel stressed that the Department had attached in 1971 a house belonging to the petitioner and that they have not yet taken proceedings to auction it and recover their dues, and so the authorities cannot validly arrest the petitioner. In Padrauna Raj Krishna Sugar Works Ltd. and others vs. The Land Reforms Commissioner, U.P. and Others, it has been held that the provisions of the law impose no objection to recover the dues only by sale of property. The arrest and detention may be affected or immovable property may be attached simultaneously. This the submission of the learned counsel has no substance.

2. The writ petition, therefore, fails and is accordingly dismissed with costs.

