
(2013) 02 AHC CK 0023

In the Allahabad High Court

Case No : Writ Petition No. 1142 (M/s.) of 2013

Smt. Roop Rani

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:

Citation : (2013) 121 RD 849

Hon'ble Judges : Ritu Raj Awasthi, J

Bench : Single Bench

Advocate : S.K. Tripathi, for the Appellant; R.N. Gupta, for the Respondent

Judgement

Ritu Raj Awasthi, J.—Notice on behalf of opposite party Nos. 1 to 5 has been accepted by learned Chief Standing Counsel and Mr. R.N. Gupta, learned Counsel has accepted notice on behalf of opposite party No. 6. For the order proposed to be passed, there is no need to issue notice to opposite party No. 7, hence notice to opposite party No. 7 is hereby dispensed with. This writ petition has been filed seeking suitable order or direction to the opposite party No. 2 to decide pending appeal filed u/s 27(3) of U.P. Panchayat Raj Act, 1947.

2. Learned Counsel for the petitioner submits that vide order dated 12.4.2012 the District Magistrate, Raibareli had held the petitioner jointly guilty for misappropriation of funds to the tune of Rs. 70,090/- and the liability on the petitioner was fixed as Rs. 35,045/-. Thereafter recovery certificate dated 22/25.9.2012 has been issued for realization of alleged amount as a measure of land revenue. The petitioner feeling aggrieved has preferred appeal u/s 27(3) of U.P. Panchayat Raj Act, 1947. The said appeal is pending and not being decided and in the meantime, demand notice under Rule 236 of U.P.Z.A. & L.R. Act has been issued whereby a total of Rs. 70,090/- has been required to be deposited by the petitioner.

3. Learned Standing Counsel, on the other hand, submitted that the petitioner has already preferred appeal against the impugned recovery. In case the

petitioner is aggrieved by any act of the opposite parties with respect to the said recovery she is at liberty to move appropriate application in the pending appeal. The writ petition as such is not maintainable.

4. I have considered the submissions made by the parties" Counsel.

5. It is the admitted position between the parties that appeal u/s 27(3) of U.P. Panchayat Raj Act has been filed against the order dated 22/25.9.2012 whereby certificate of recovery for an amount of Rs. 35,045/- was issued against the petitioner. The said appeal is pending consideration. It is for the appellate authority to decide as to whether the said appeal is liable to be admitted or not, delay in filing the appeal is liable to be condoned or not and whether the appeal is to be heard on merits and decided or not. However, since the appeal is pending before the opposite party No. 2/Divisional Commissioner, Lucknow, it would be appropriate that the opposite party No. 2 shall consider and decide the said appeal expeditiously.

6. In this view of the matter, with the consent of parties" Counsel and without entering into merits of the case, the writ petition is disposed of finally at this stage with direction to the opposite party No. 2/Divisional Commissioner, Lucknow to consider and decide pending appeal of the petitioner in accordance with law, as per his own discretion, expeditiously, say, within a period of six months from the date a certified copy of this order is produced before him. It is, however, to be observed that in case the petitioner is aggrieved with any act of the opposite parties she is at liberty to move appropriate application in the pending appeal.