

(1960) 04 AHC CK 0003

In the Allahabad High Court

Case No : Civ. Miscellaneous Writ No. 2650 of 1956

Sri Narayan

APPELLANT

Vs

State Government of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 08-04-1960

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1960) 30 AWR 381

Hon'ble Judges : V. Bhargava, J; Jagdish Sahai, J

Bench : Division Bench

Advocate : K.L. Grover, brief holder of Ambika Pd, for the Appellant; K.B. Asthana, Jr. Standing Counsel, for the Respondent

Judgement

V. Bhargava, J.—This petition under Article 226 of the Constitution has been presented by a Petitioner against whom proceedings for recovery of arrears of Agricultural Income tax are pending. According to the Petitioner, a total sum of Rs. 868/- in respect of arrears of agricultural income tax and penalty imposed upon him are being realised from him by means of coercive measures. The Petitioner presented an application on 24th July, 1956 before the Agricultural Income Tax Assessing Officer, Allahabad, praying that the zamindari abolition compensation bonds which he was depositing may be accepted in payment of these dues. That application was rejected by the Assessing Officer on the same day by an order saying: "There is no rule for the acceptance of these bonds. They may be returned to the Applicant." There upon the Petitioner moved an application before the Collector of Allahabad on the 1st of Aug 1956 containing a similar prayer and offering the compensation bonds in payment of the dues. This application was supported by an affidavit. The Collector of Allahabad called for a report from the Assessing Officer who reported on 7th of August 1956 as follows:

With reference to your order dated 3-8-56 I have the honour to reply that Z, A Bonds are not accepted in the settlement of A.I. Tax dues. Besides they are not en-cashable immediately and there is no provision in the Act for this acceptance.

Submitted for orders.

2. On receipt of this report the Collector of Allahabad, whose powers were being exercised by the Additional Distt. Magistrate, on 24th August 1956 passed the following order on that application: "Application rejected. Inform Applicant". Aggrieved by these orders the Petitioner moved this petition under Article 226 of the Constitution in this Court praying for the quashing of the orders dated 24th July 1956 and 24th August 1956 passed by the Assessing Officer and the Collector respectively as quoted above. A second prayer in the petition was that a writ of mandamus be issued directing the Assessing Officer and the Collector to accept the zamindari abolition bonds in lieu of these dues which were being realised from the Petitioner. A third prayer was for the issue of a writ of prohibition directing the opposite parties the Assessing Officer and the Collector to refrain from adopting coercive measures to realise the dues from the Petitioner. The petition has been contested on behalf of the opposite parties on whose behalf a counter affidavit has been filed.

3. The principal question that falls for decision in this case is whether the orders of the Assessing Officer and the Collector dated 24th July 1956 and 24th August, 1956 respectively are valid and correct orders and have been passed by these authorities in proper exercise of their duties and in accordance with law. The orders are themselves speaking orders in the sense that they contain within them the reasons which prompted these orders. In the case of Assessing Officer's order dated 24th July 1956, the reason given is that there is no rule for the acceptance of the bonds. In the order of the Collector dated 24th August 1956, no specific reason is mentioned but in view of the fact that this order was passed on the basis of the report of the Assessing Officer dated 7th August 1956 without separately specifying the reasons, it necessarily follows that this order was based on the reasons given in the report of the Assessing Officer dated 7th August 1956. In that report also the Assessing Officer had given the main ground for non acceptance of the prayer that there is no provision in the Act for the acceptance of the bonds. This ground which has been given for rejecting the prayer is clearly in correct and appears to have been given by these officers in complete ignorance of the provisions of law. There is firstly Clause (d) of Section 6 of the Zamindari Abolition and Land Reforms Act which lays down that arrears of agricultural income tax for any period prior to the date of vesting may be realised by deducting the amount from the compensation money payable to an intermediary under Ch. III of the Act. Then there is Rule 8(a) framed under the Act which goes a little further and lays down that such arrears of land revenue shall be realised from the amount of interim compensation or by deduction from the amount of compensation payable to an intermediary depending on whether the intermediary was assessed to land revenue of Rs. 10,000/- or more or to an amount less than Rs. 10,000/-. It seems that the provisions of the Zamindari Abolition and Land Reforms Act and the rules framed under it which have the force of law have been completely ignored by these authorities when passing these orders. In the order of the Collector, two other reasons are given for not

accepting the Zamindari abolition bonds, being reasons included in the report of the Assessing Officer. One reason is that such bonds are not accepted in the settlement of agricultural income tax dues. Clearly, this could be no ground for rejecting the prayer made by the Petitioner as the practice of acceptance or non-acceptance of the bonds is no criterion at all. What was required was to decide the matter in accordance with law and not in accordance with any practice unless the practice itself was in accordance with law. The third reason given is that the bonds are not immediately encashable. That again is a consideration which is irrelevant to the provisions of Section 6(d) of the Zamindari Abolition and Land Reforms Act and Rule 8(a) of the rules framed under that Act. The applications were then rejected by the Assessing Officer as well as the Collector on grounds which were not at all relevant for being taken into consideration when dealing with those applications. The applications should have been decided in accordance with the provisions of Clause (d) of Section 6 of the Zamindari Abolition and Land Reforms Act and Rule 8(a) of the rules framed thereunder. Under these circumstances, those orders are liable to be quashed but we consider that no purpose will be served by quashing the order of the Assessing Officer dated 24th July 1956 as that order will not in any way fetter the discretion of the Collector in deciding the subsequent application dated 1st of Aug. 1956 which, according to our decision above, was rejected by the Collector on incorrect grounds on 24th August 1956. We consider that adequate relief will be available if we direct the Collector to decide this application of 1st August 1956 in accordance with law after quashing his order dated 24th August 1956. On this relief being granted no further relief sought in the petition need be considered. In the circumstances we allow this petition to the extent that we quash the order of the Collector of Allahabad dated 24th of August 1956 rejecting the application of the Petitioner dated 1st of August 1956 and direct him to decide that application afresh in accordance with law as indicated above. The rest of the prayers being unnecessary are refused. In the circumstances of this case we direct parties to bear their own costs of this petition.