
(1999) 08 AHC CK 0001
In the Allahabad High Court
Case No : Criminal Revision No. 112 of 1984

State of U.P.

APPELLANT

Vs

Ram Harsh

RESPONDENT

Date of Decision : 19-08-1999

Acts Referred:

Uttar Pradesh Road Side Land Control Act, 1945 — Section 13, 5

Citation : (2000) 2 ACR 1062

Hon'ble Judges : Naseemuddin, J

Bench : Single Bench

Advocate : G.A, for the Appellant; R.A. Mishra and Kanti Sharma, for the Respondent

Judgement

Naseemuddin, J.—List has been revised. None appears for the opposite party.

2. This criminal revision has been filed by the State of U. P. against order dated 19.11.1983 passed by Sri S. Tiwari Special/Addl. Sessions Judge, Rae Bareli in Criminal Appeal No. 294 of 1982, whereby the appeal was allowed and the judgment and order dated 8.11.1982 passed by Sri Madhukar Dwivedi, Collector, U. P. Roadside Control Act, Rae Bareli, was set aside.

3. Learned Counsel for the revisionist-State was heard. Opposite party did not appear to argue.

4. It was submitted on behalf of the State-revisionist that no criminal appeal would lie against an order passed by the Collector under Sub-section (2) of Section 13 of the U. P. Roadside Control Act, 1945 (in brief the Act). The order of the Collector which was under challenge before the Court of Session was to the effect that the opposite party had contravened the provisions of Sub-section (2) of Section 13 of the Act as it was a construction on the Rae Bareli-Sultanpur Road within the "control road area" and was in violation of Section 5 of the Act and so was liable to be removed. A time of three months was given to the opposite party for removing the unauthorised construction and to restore the

land in its original state. The details of the area were also mentioned in the order. Sub-section (2) of Section 13 of the Act runs as follows:

(2) Without prejudice to the provisions of Sub-section (1), the Collector may order any person who has committed a breach of the provisions of the said Sub-section to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be, any building or land in respect of which a contravention such as is described in the said Sub-section has been committed, and if such person fails to do so within three months of the order, may himself take such measures as may appear to him to be necessary to give effect to the order, and the cost of such measures shall be recoverable from such person as arrear of land revenue.

5. The order was, therefore, clearly under Sub-section (2) of Section 13 of the Act. The opposite party was found to have contravened the provisions of the Act and had raised unauthorised construction and so the opposite party was directed to restore the land to its original state. No appeal has been provided against this order either under the Act or under the Rules framed under the Act. Since no appeal against this order passed by the Collector on 8.11.82 lies before the Sessions Judge, therefore, the appeal being incompetent, Sessions Judge had no jurisdiction to entertain and decide the appeal. The revision filed by the State herein has, therefore, got force as the order under challenge was passed by the Court which had no jurisdiction to entertain and decide the matter in appeal or otherwise under Sub-section (2) of Section 13 of the Act. The revision is, therefore, allowed.

The judgment and order dated 19.11.83 passed by Special/Addl. Sessions Judge in Criminal Appeal No. 294 of 1982 are set aside. The order dated 8.11.82 passed by Sri Madhukar Dwivedi, Collector, U. P. Roadside Control Act, Rae Bareli, in Case No. 3 of 1980 under Sub-section (2) of Section 13, U. P. Roadside Control Act, therefore, stands.