

(1994) 08 AHC CK 0050

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 26223 of 1994

State of U.P., Through Divisional Forest Officer, Ram Nagar,
Nainital

APPELLANT

Vs

Addl.District Judge (Finance and Revenue), Nainital and
others

RESPONDENT

Date of Decision : 11-08-1994

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1994) 08 AHC CK 0050

Hon'ble Judges : Ravi S.Dhavan, J and S.K.Keshote, J

Final Decision : Dismissed

Judgement

1. This writ petition has been filed on behalf of the State of U. P. through the Divisional Forest Officer, Ram Nagar, Forest Division, Ram Nagar, Nainital. By this petition the order of the Addl. District Magistrate (Finance & Revenue), Nainital has been challenged. This is the order dated 20th January, 1994, by which the petitioner has been required to pay the municipal taxes upon constructing certain buildings. The Forest Department says that the buildings are on its land. In fact, otherwise the Forest Department has paid the house tax upto 30111990. On an objection by this Department against the citation of recovery dated 1661993, the recovery of the municipal rates the respondent no. 1, the Additional District Magistrate, Nainital, by his order dated 2011994, directed the petitioner to pay these municipal taxes, untill the matter is settled by an appropriate Court.

2. On the question which has been raised in the present petition, the Supreme Court in re : Oil and Natural Gas Commission v. Collector, Central Excise (1991 JT (4) SC 153) has held, in effect, that if there be a dispute between the two departments of the State, or a public sector undertaking or the State and a public authority, then such a litigant should first get a clearance from the Government before it is filed in Court The idea behind the principle is that frivolous litigations should not clutter the courts.

3. No such clearance has been placed before the High Court. The Forest Department challenges the recovery of taxes under orders issued by the Additional District Magistrate. It would be a ridiculous proposition if the Court was to permit notice to be issued on this petition, as in the circumstances of this case it would result in an anarchy in administration with the departments of governments litigating with each other. The departments of government are not legal entities; it is the State. The Court cannot encourage one department of government to a contentious litigation with another. Two or more departments may disagree, but if the matter is so much riddled with issues then the Secretaries to the Government are to resolve the matter, failing which take it to the Chief Secretary of the State.

4. This petition by one department against another in the State of Uttar Pradesh cannot and does not lie.

5. Petition dismissed.

6. Let a copy of this order be sent to the Chief Secretary, Uttar Pradesh.

(Petition dismissed)