

(1996) 11 AHC CK 0137
In the Allahabad High Court
Case No : C.M.W.P. No. 4932 of 1977

Uma Shanker Sahu and Others

APPELLANT

Vs

U.P. Khadi and Village Industries Board and Another

RESPONDENT

Date of Decision : 20-11-1996

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Khadi and Village Industries Board Act, 1960 — Section 35A
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 275, 276, 277, 278, 278

Citation : (1996) 11 AHC CK 0137

Hon'ble Judges : P.K. Jain, J;D.S. Sinha, J

Bench : Division Bench

Advocate : R.R. Shivahare, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—Heard Sri Raja Ram Shivahare, learned Counsel for the Petitioners and Sri Vinay Malaviya, learned standing counsel representing the Respondent No. 2, Despite due service, the Respondent No. 1 has chosen to file any counter-affidavit.

2. Bajrang Tel Ghani Avam Grih Udyog Sahkari Samiti Ltd., Village and Post Dighawat, District Banda, the Petitioner No. 3, and its President Sri Rama Shankar Sahu, the Petitioner No. 2, and the Secretary Sri Uma Shankar Sahu, the Petitioner No. 1, pray that the recovery certificate dated 1st December, 1979, a copy whereof is Annexure IV to the petition, be quashed. Further prayer of the Petitioners is that the Respondents be restrained from making any recovery from the Petitioners.

3. The factum of existence of the recoverable arrears, including its amount, and the identity of the person/persons from whom the recovery is sought to be made under the impugned recovery certificate are challenged by the Petitioners.

4. The impugned recovery certificate has been issued under the provision of Section 35A of the Uttar Pradesh Khadi and Village Industries Board Act, 1960. This section provides that where any amount is recoverable by the U.P. Khadi and Village Industries Board on account of any loan or advance or grant made by it for the purpose of development of Khadi and Village Industries, the same may, without prejudice to any other remedy provided by law, be recovered as arrears of land revenue.

5. Sri R. R. Shivahare, learned Counsel for the Petitioners, very fairly, concedes that in view of the fact that the amount sought to be recovered is recoverable as arrears of land revenue, the provisions of Sections 275 to 292 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 shall apply. It is further conceded by him that the impugned recovery certificate is to be deemed to be a statement of certified account as provided in Section 278 of the U.P. Zamindari Abolition and Land Reforms Act, 1950.

6. Section 278, aforesaid, envisages that a statement of account certified by the Tehsildar shall, for the purpose of collection of land revenue, be conclusive evidence of the existence of the arrears of land revenue, of its amount and of the person who is the defaulter. Thus, the question of the existence of the arrears of land revenue, its amount and the identity of the person who is defaulter cannot be questioned. The remedy of the person aggrieved in that regard is provided u/s 278A of the U.P. Zamindari Abolition and Land Reforms Act, 1950. It contemplates that the aggrieved person may pay the amount claimed under protest and upon such payment the proceeding for recovery shall be stayed and thereafter he may sue the State Government in the civil court for the amount so paid, and in such suit he may, notwithstanding anything contained in Section 278, give evidence of the amount, if any, which he alleges to be due from him.

7. The impugned recovery certificate quantifies the amount due to be paid to be Rs. 17,761.99 paise only. It further identifies the Petitioner No. 3 as defaulter.

8. Thus, in view of the provision contained in Section 278 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 read with Section 35A of the U.P. Khadi and Village Industries Board Act, 1960, the amount is clearly recoverable from the Petitioner Co-operative Society and no umbrage can be taken in that regard. In the opinion of the Court, the impugned recovery certificate is not contrary to any provision of law warranting interference by this Court in exercise of its special and extraordinary Jurisdiction under Article 226 of the Constitution of India.

9. In the result, the petition fails and is dismissed. The interim order dated 14th December, 1977 shall stand discharged. In view of the fact that the Respondents have not filed any counter-affidavit, there is no order as to costs.