

(2014) 07 AHC CK 0091
In the Allahabad High Court
Case No : Writ-C No. 35052 of 2014

U.P. Gramin Evam Khethihar Mazdoor Union	APPELLANT
Vs	
State of U.P.	RESPONDENT

Date of Decision : 10-07-2014

Acts Referred:

Citation : (2014) 124 RD 391

Hon'ble Judges : Ran Vijai Singh, J

Bench : Single Bench

Advocate : Shams Vikas and Smriti Kartikeya, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Ran Vijai Singh, J.—Learned Counsel for the petitioner is directed to implead concerned Gaon Sabha as one of the respondent and serve the copy of the writ petition to the learned Counsel for the Gaon Sabha. Heard Sri Shams Vikas, learned Counsel for the petitioners, learned standing Counsel for the State-respondents and Sri Rajesh Yadav, learned Counsel for the Gaon Sabha.

2. The petitioners are sixty one in number. They have filed the writ petition seeking writ of certiorari quashing the orders dated 20.6.2012 and 11.10.2012 passed in respective cases. It is contended that no opportunity was ever given to the petitioners before passing the impugned order and the petitioners came to know only after recording the order dated 20.6.2012 in khatauni.

3. Learned Standing Counsel states that the petitioners are the asami lease holders, therefore no infirmity can be attached to the impugned orders and further they have got an alternative remedy of revision, therefore the writ petition be dismissed on the ground of alternative remedy.

4. The Apex Court in Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Others, has held that in case the order is without jurisdiction or the same has been passed in breach of principles of natural justice, the writ petition should

not be thrown on the ground of alternative remedy, therefore the writ petition is entertained.

5. Considering the facts and circumstances of this case and keeping in mind the law laid down by the Apex Court in *Mrs. Maneka Gandhi Vs. Union of India (UOI) and Another, Union of India v. Tulsi Ram Patel* 1985 (3) SCC 398 : 1985 (51) FLR (SC) I.J. I.J. Rao, Asstt. Collector of Customs and Another Vs. Bibhuti Bhushan Bagh and Another, *Canara Bank v. V.K. Awasthi*, 2005 (6) SCC 321 : 2005 (34) AIC 430 (SC) *Muzeeb Vs. Dy. Director of Consolidation, Azamgarh and others, and Chaturgun and Others Vs. State of U.P. and Others*, the petitioner is provided post decisional hearing.

6. In this regard, the petitioner may file an application, seeking recall of the orders dated 20.6.2012 and 11.10.2012 accompanied with his objection to the impugned orders, within a period of three weeks from today, along with a certified copy of the order of this Court. In case such an application is filed before the Sub-Divisional Officer Behat, Saharanpur, the same shall be considered and decided on its own merit in accordance with law expeditiously without granting any unnecessary adjournment to the learned Counsel for the parties, after hearing all concerned by passing a reasoned and speaking order, if possible within a period of six months from the date of filing of such an application.

7. It is provided that in case the petitioners are in possession over the land in dispute, they will not be dispossessed till the disposal of their applications. It is further provided that in the meantime, no third party right shall be created.

8. It may be clarified that I have not addressed myself on the merit of the case and the Sub-Divisional Officer, Saharanpur is free to pass an independent order in accordance with law on its own merit. With, the aforesaid observation/direction, this writ petition is disposed of.