

**Anirudh Shahi Vs. Executive Engineer, Construction Division, Pwd Banda and Others**

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**SooperKanoon Citation :** [sooperkanoon.com/454480](http://sooperkanoon.com/454480)

**Court :** Allahabad

**Decided On :** Mar-04-1997

**Reported in :** AIR1997All363

**Judge :** Binod Kumar Roy and ;M.L. Singhal, JJ.

**Acts :** [Constitution of India](#) - Act 226

**Appeal No. :** Civil Misc. Writ Petn. No. 22276 of 1996

**Appellant :** Anirudh Shahi

**Respondent :** Executive Engineer, Construction Division, Pwd Banda and Others

**Advocate for Def. :** Standing Counsel

**Advocate for Pet/Ap. :** W.H. Khan, Adv.

**Judgement :**

ORDER

1. The solitary question mooted out in this writ petition, in which a prayer has been made to quash the recovery proceedings including its certificate dated 1-6-1996, as-contained in Annexure 7, as well as citation dated 22-6-1996, as contained in Annexure 8, is-that in the absence of any agreement to the contrary the amount sought to be recovered cannot be recovered as arrears of land revenue.

2. Mr. Khan, learned counsel appearing in support of the petitioner, took us to several paragraphs of the writ petition as well as various orders passed in this case from time to time that despite grant of repeated indulgence to the respondents since 16-7-1996 they have not come up with any counter and accordingly invoking the doctrine of non-traverse this court may accept the submission in this regard as correct.

3. Mr. Yadav, learned Standing Counsel, on the other hand, initially again prayed for adjournment, but when we drew his attention to the order dated 16-7-1996, 13-8-1996, 16-10-1996 and expressed that it will no longer be possible for us to accede to the request, proceeded to make a submission that in the absence of any counter it is difficult to rebut the contention of Mr. Khan.

4. Having heard learned counsel for the parties, in view of the non-rebuttal of the facts stated by the petitioner in the writ petition, supporting the aforementioned proposition of law, we have no option but to accept it.

5. In the result the impugned recovery proceedings including citation as well as the notice as contained in Annexures-1 and 8 are quashed. This writ petition is allowed to the extent indicated as above but in the peculiar facts and circumstances we make no order as to cost. We also clarify that if there is no legal impediment in taking recourse to any other action in accordance with law against the petitioner, in that event it will be open for the respondents to do so.

6. The office is directed to hand over a copy of this order to the learned Standing Counsel Mr. Yadav for its communication to and follow up action.

7. Petition allowed.

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