

Prem Kumar Vs. State of U.P. and Others

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SooperKanoon Citation : sooperkanoon.com/461710

Court : Allahabad

Decided On : Dec-14-1999

Reported in : 2000(1)AWC727

Judge : D.S. Sinha and; I.M. Quddusi, JJ.

Acts : Uttar Pradesh Money Recovery of Dues) Act, 1972 - Sections 3; Uttar Pradesh Money Recovery of Dues) (Amendment) Act, 1975; [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 36726 of 1991

Appellant : Prem Kumar

Respondent : State of U.P. and Others

Advocate for Def. : S.C. and ;P.K. Mukherji, Adv.

Advocate for Pet/Ap. : Sharad Varma, Adv.

Judgement :

D.S. Sinha, J.

1. Heard Shri Sharad Verma. learned counsel appearing for the petitioner, Shri Sanjay Goswami, (earned standing counsel of the State of U. P., representing the respondent Nos. 1 and 2 and Shri Pradeep KumaR Sinha, hoLding brief of Shri P.

K. Mukerji, learned counsel of the contesting respondent No. 3.

2. Through the impugned citation dated 26th November, 1991, a photocopy whereof is Annexure-2 to the petition, issued at the behest of the contesting respondent No. 3, a sum of Rs. 35,400 plus recovery charges is sought to be recovered from the petitioner. Feeling aggrieved by the impugned citation, the petitioner has filed this petition under Article 226 of the [Constitution of India](#).

3. The contention of the petitioner is that the recovery proceeding in pursuance whereof the impugned citation has been issued is wholly illegal being contrary to sub-clause (10) of clause 19 of the Scheme for providing Self Employment to Educated Unemployed Youth (SEEUY) whereunder the amount sought to be recovered was given to him by way of loan. A copy of the Scheme is to be found on record as Annexure-S.A. 1 to the supplementary-affidavit filed by the petitioner.

4. It is not disputed that the money sought to be recovered from the petitioner as arrears of land revenue was advanced to him by way of loan by the respondent No. 3 under the Scheme for providing Self Employment to Educated Unemployed Youth (SEEUY) and it can be recovered as arrears of land revenue only if the Scheme is a 'State Sponsored Scheme' contemplated under the U. P. Public Money (Recovery of Dues) Act, 1972, hereinafter called the Act.

5. Sub-clause (10) of clause 19 of the Scheme runs as under :

'The Government of Uttar Pradesh has declared the scheme as State Sponsored under U. P. Public Money (Recovery of Dues) Act. 1972 (U. P. Act 23 of 1972) amended by U. P. Public Money (Recovery of Dues) Amendment Act, 1975 (U. P. Act 17 of 1975) as from the 17th October. 1985. The Recovery Certificate can be filed in respect of the loans sanctioned after 17th October, 1985 and not in respect of loans sanctioned and disbursed before 17th October. 1985.'

6. A bare pursual of sub-clause (10) of clause 10 of the Scheme, quoted above reveals that loan sanctioned and advanced before 17th October, 1985 cannot be recovered as arrears of land revenue in as much as the Scheme was declared 'State Sponsored Scheme' under the Act only with effect from 17th October, 1985.

7. In paragraph 4 of the petition, it is asserted that the loan was sanctioned on 31st March, 1984. Paragraph 11 of the counter-affidavit filed on behalf of the respondent No. 3 contains reply to the averments made in paragraph 4 of the petition. The factum of sanction of the loan to the petitioner under the Scheme (SEEUY) on 31st March, 1984, when the scheme was not declared to be a 'State Sponsored Scheme' under the Act, is not denied.

8. The loan advanced to the petitioner having been sanctioned on 31st March, 1984. and not after 17th October, 1985, the recovery certificate under the U. P. Public Money (Recovery of Dues) Act, 1972. for realisation of the loan as arrears of land revenue could not be issued in view of sub-clause (10) of clause 19 of the Scheme.

9. Therefore, the impugned recovery proceedings in pursuance whereof impugned citation has been issued is bad being in contravention of sub-clause (10) of clause 19 of the Scheme and cannot be sustained.

10. In the result, the petition succeeds and is allowed. The citation dated 26th November, 1991 (Annexure-2 to the petition) is quashed. There is no order as to costs.