

Pramod Kumar Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Apr-15-2009

Reported in : 2009(3)AWC2115

Judge : Amitava Lala and ;S.S. Tiwari, JJ.

Appellant : Pramod Kumar

Respondent : State of U.P. and ors.

Judgement :

ORDER

Amitava Lala, J.

1. Petitioner has taken a plea before this Court that the recovery certificate dated 16.2.2009 issued by the respondent No. 3 is not in accordance with law. In support of his contention, he has shown us the provisions of Section 2(g) read with Section 3 of the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972. He has relied upon a judgment of the Supreme Court in Iqbal Naseer Usmani v. Central Bank of India and Ors. 2006 (1) SCC 205 : 2006 (1) AWC 962 (SC). It is to be remembered that this Bench has already passed several orders following the ratio of the Supreme Court Judgement in Iqbal Naseer Usmani v. Central Bank of India and Ors. : 2006 (2) SCC 241, which is parallel to the aforesaid Judgment but in the circumstances when the citation has been issued. In this case no citation has been issued but the demand notice has been issued. Therefore, we are of the view that

the petitioner has an opportunity to take a defence by giving reply to the recovery notice. Hence, if the petitioner gives the reply within two days from the date of obtaining certified copy of this order taking all the pleas, as taken herein, the authority concerned will consider the same in accordance with law upon giving fullest opportunity of hearing and by passing a reasoned order thereon before issuing citation or giving direction for issuance of the citation. A certified copy of this order will be produced by the petitioner before the authority concerned within 72 hours from today. However, till the decision is taken by the authority concerned on the basis of the reply to be submitted by the petitioner, giving of effect to the recovery certificate, as already issued by the Bank, will be kept in abeyance.

2. Accordingly, the writ petition is disposed of without imposing any cost.

S.S. Tiwari, J.

3. I agree.

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