

Asha Textiles (P.) Ltd. and Another Vs. State of U.P. and Others

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SooperKanoon Citation : sooperkanoon.com/471854

Court : Allahabad

Decided On : Mar-09-1998

Reported in : 1998(2)AWC1196

Judge : D.S. Sinha and ;M.L. Singhal, JJ.

Acts : Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 - Rules 255 and 259

Appeal No. : C.M.W.P. No. 29404 of 1991

Appellant : Asha Textiles (P.) Ltd. and Another

Respondent : State of U.P. and Others

Advocate for Def. : V.K. Tewari, ;Krishna Murari, ;A.K. Shukla, Advs. and ;S.C.

Advocate for Pet/Ap. : R.K. Agrawal, ;V.K. Bist and ;S.P. Gupta, Advs.

Judgement :

D.S. Sinha and M.L. Singhal, JJ.

1. Heard Shrt Rajesh Kumar Agrawal learned counsel appearing for the petitioners, Shri Krishna Murari learned counsel appearing for the respondent No. 5, and Shri A. K. Shukla learned standing counsel representing the respondents No. 1 2, 3, 4 and 5.

2. At the outset. Shri Rajsh Kumar Agrawal learned counsel of the petitioners, states that instant petition be treated to be confined to the prayer No. (iii) only.
3. The prayer of the petitioners is that the respondent Nos. 1 to 4 restrained from insisting payment of an amount equivalent to 10 per cent of the money sought to be recovered under the Citation dated 28th August, 1991.
4. The contention of the learned counsel of the petitioners is that under the relevant Rules, namely. 255 and 259 of the U. P. Zamindari Abolition and Land Reforms Rules, 1952, collection charges can be recovered at the rate of Rs. 3.75 only, and not more than that. In support of his contention, the learned counsel cites the Division Bench decision of this Court dated 20th January, 1992, rendered in Civil Misc. Writ Petition No. 4307 of 1981. M/s. Chemopulp Tissues Limited v. State of U. P. and others.
5. Neither Shri A. K. Shukla, learned standing counsel nor Shri Krishna Murari, learned counsel of the respondent No. 5, disputes this position that in view of Rules 255 and 259 of the Rules and the decision of this Court in the case of M/s. Chemopulp Tissues Limited (supra), recovery charges cannot exceed more than Rs. 3.75 and the demand of the respondents in excess thereof is wholly untenable.
6. In the result, the petition succeeds and is allowed. The respondents are directed not to insist payment of collection charges more than Rs. 3.75 in respect of the recovery of the amount under the Citation dated 28th August. 1991, a photocopy whereof is. Annexure-'10' to the petition.