
(1997) RD 14

Allahabad High Court

Case No: C.M.W.P. No. 21473 of 1996

Mohd. Nasim

APPELLANT

Vs

State of U.P. and
Others

RESPONDENT

Date of Decision: July 12, 1996

Acts Referred:

- Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 - Section 148, 285
- Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 - Rule 235

Citation: (1997) RD 14

Hon'ble Judges: J.S. Sidhu, J; B.M. Lal, J

Bench: Division Bench

Advocate: B.D. Mandhuan, for the Appellant;

Final Decision: Disposed Of

Judgement

B.M. Lal and J.S. Sidhu, JJ.

Sri Sharad Madhyan, learned Counsel appeared for Petitioner and learned Standing Counsel for the Respondents. They are heard.

2. The short question involved in this petition for determination by this Court is whether a defaulter who has been detained in custody for a period of 15 days in respect of any arrears recoverable as arrears of land revenue, can be arrested and detained again in a recovery proceeding relating to the same arrears.

3. In short the facts relevant for determination of above mentioned question are as under:

According to the Petitioner a recovery notice dated 28.12.1990 (Annexure 4 to the writ petition) for an amount of Rs. 6,35,098.77 + interest + 10% recovery charges was issued to the Petitioner and ultimately the Tehsildar, the Respondent No. 2 passed order dated 5.1.1993 (Annexure 5 to the writ petition) for Petitioner's arrest u/s 285 of U.P.Z.A. & L.R.

Act (for short the Act) and Rule 235 of the Rules framed under the Act, pursuant to which Petitioner was arrested and detained in Jail for 15 days and was released from the Jail on 19.1.1993. This time again the Respondent No. 2 has issued writ of demand and citation dated 14.6.1996 raising the demand to Rs. 16,86,820.00 for the same loan (cide Annexure 7 to the writ petition). The Respondents are trying to again arrest the Petitioner in the recovery proceeding relating to the same arrear. Hence this petition.

4. The controversy in dispute has been set at rest by a Division Bench of this Court in *Sangam Lal Gupta v. Sales Tax Officer and Ors.* 1969 ALJ 257, wherein taking into account the relevant provisions of the Act and Rules and other allied provisions, it has been held that the period of fifteen days prescribed by Section 148 of the Act is the maximum period for which a defaulter may be detained in custody in respect of any arrear. If he has been detained in custody for that period, he cannot be arrested and detained again in a recovery proceeding relating to the same arrears of land revenue. However, the arrears can be recovered through oilier process other than arrest and detention.

5. The above referred decision of this Court was taken into consideration by the Apex Court in [Ram Narayan Agarwal and Others Vs. State of Uttar Pradesh and Others](#), and the same stands affirmed by the Apex Court, though the actual controversy before the Apex Court was s bit different.

6. Thus, keeping in view the ratio laid down in *Sangam Lal Gupta's* case (supra), we are of the considered opinion that in the instant case, if the Petitioner has already undergone fifteen clays imprisonment in respect of same arrears, he shall not be arrested and detained again. However, the recovery proceedings shall continue.

With these directions, this petition is disposed of finally. There shall be no order as to costs.