

(2003) 02 AHC CK 0166

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 8338 of 2003

Jawahar Lal Jaiswal

APPELLANT

Vs

District Magistrate/Collector and
Others

RESPONDENT

Date of Decision: Feb. 20, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2003) 5 AWC 3770 : (2003) 2 UPLBEC 1151

Hon'ble Judges: Ghanshayam Das, J; A.K. Yog, J

Bench: Division Bench

Advocate: Ashok Kumar Srivastava, for the Appellant;

Final Decision: Dismissed

Judgement

A.K. Yog and Ghanshyam Dass, JJ.

In the instant case, the petitioners have come up with the grievance that recovery certificate issued against them is illegal and it should not be allowed to be pressed and given effect to in view of the fact that Parishad authorities have not settled the matter by compromise with respect to illegal constructions made by them.

2. Without going into the legal niceties or otherwise of the case we take notice of the fact that illegal constructions were raised by the petitioners and there should not be allowed to be settled by compromise and the Parishad authorities have no right to power to settle the illegal constructions by compromise in lieu of money, if nosing larger interest of the public at large. We take judicial notice of the fact that by compromise illegal constructions particularly of any markets which is adjoining to the roads while the area of the roads can not be increased whereas a number of vehicles as well as public are increasing manifold yearly and settlement of such illegal constructions by compromise will cause hazardous to the public life.

3. The petitioners' representation filed as Annexure-5 on Pages 15, 16, 17 and 18 clearly shows that the businessman of the locality including the petitioners have not taken care of law and are making illegal constructions adjoining to the road putting the public life in hazard. We cannot acquiesce such a proposition and the whole illegal construction built in such manner will not be to continue.

4. Having regard to the submissions made on behalf of the petitioners that the illegal constructions were made long back we do not find that the conduct of the petitioner justifies invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The petition has no merits and is, therefore, dismissed. Before parting with the case, we would further like to caution the respondents that they should not compromise the rank illegal construction. Learned Standing Counsel as well as the Counsel appearing on behalf of the Parishad justify the compromise of such illegal constructions on the basis of Government Orders. If there is any such Government Order permitting the authorities to settle the illegal constructions by compromise, such Government Orders are illegal, and devoid of any substance and that Government Order does not deserve to sustain.

5. In view of this, the writ petition is dismissed. However, it is directed that the illegal constructions are to be demolished after the decision by the concerned authority of State level and no recovery should be made with respect to such illegal constructions. A copy of this order be sent to the Chief Secretary for Information within two weeks.