

State of U.P. Vs Behari Lal and Others

Court: Allahabad High Court

Date of Decision: Aug. 29, 2002

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 39 Rule 2A
Contempt of Courts Act, 1971 â€” Section 2, 20
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 â€” Section 341

Citation: (2003) CriLJ 163 : (2002) 93 RD 741 : (2002) 3 UPLBEC 2541

Hon'ble Judges: S.N. Srivastava, J

Bench: Single Bench

Advocate: Satish Chand Rati, Addl. C.S.C, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S.N. Srivastava, J.

This reference u/s 12 of the Contempt of Courts Act was registered by the order of Chief Justice dated 1-8-1996 on the request of the then District Magistrate Hamirpur made through letter dated 27th April, 1996.

2. In a suit instituted under Sections 229B/209/202 of the U.P.Z.A. & L.R. Act, an order was passed on 14-12-1991 in exercise of power u/s

229-B which was made absolute on 12-2-1992 in case No. 334/123/35 of 1986-87 Nagar Palika Rath v. Ayodhya Prasad and others. It is

alleged in the reference that Bihari Lal, Amar kumar and Arvind have willfully disobeyed the orders dated 14-12-1990 and 12-2-1992 passed by

S.D.M. in which they were restrained from using the water of pond in dispute for irrigation or altering the shape of the pond. It transpires from the

record, that notices have not yet been issued to the Opp. Parties.

3. Heard Sri Satish Chand Rai, Addl. Chief Standing Counsel. In the light of the materials on record and the submissions made at the bar, the

following questions crop up for determination.

1. Whether S.D.O./Asstt. Collector, 1st Class exercising jurisdiction u/s 229 B of the Z.A. & L.R. Act is a Court within the definition of Section

2-B of the Act ?

2. Whether any proceeding could be launched under The Contempt of Courts Act for alleged wilful disobedience of order passed u/s 229B of the

U.P. Z.A. & L.R. Act.?

3. Whether the present proceedings are barred u/s 20 of the Contempt of Court Act and/or no proceedings could be initiated under The Contempt

of Courts Act.

4. The second question being significant one having bearing on the other two questions, I propose to deal with it for proper appreciation of the

other two questions. By virtue of Section 341 of the U.P.Z.A. & L.R. Act, the provisions of the C.P.C. it is well established by catena of judicial

precedents, are attracted for application. Section 341 of the U.P. Z.A. & L.R. Act are excerpted below for ready reference.

341. Application of certain Acts to the proceeding of this Act.-- Unless otherwise expressly provided by or under this Act the provisions of the

Indian Court Fees Act, 1870 (VII of 1870), the Code of Civil Procedure, 1908 (V of 1908), and the (Limitation Act, 1963 (XXXVI of 1963)),

(including Section 5 thereof) shall apply to the proceedings under this Act.

It brooks no dispute that the proceedings u/s 229D have the complexion of temporary injunction and by virtue of Section 341 of the U.P. Z.A. &

L.R. Act, provisions of the CPC are intended for application inasmuch as the U.P. Z.A. & L.R. Act does not have any independent provision to

deal with the situation such as the situation emerging from disobedience of the order. In the absence of any provision under the Act, the provisions

of Order 39, Rule 2A. C.P.C. can be invoked in aid to deal with the situation such as emerging from disobedience of the orders. My view receives

reinforcement from a decision of this Court in Nepal Singh v. Board of Revenue reported in 1994 Prayag Nirmal Patrika at p. 205 in which it has

been held that the procedure prescribed for temporary injunction in the C.P.C. will be applicable to the proceeding under the U.P.Z.A. and L.R.

Act. In the light of the above discussion, it thus crystallises that the situation emerging from disobedience of the order can be dealt with by

application of the provisions contained under Order 39, Rule 2A, C.P.C. and by the reckoning, the matter can, by way of alternative remedy, be

relegated to the Court initiating reference to deal with the matter resulting from disobedience of its orders, the contempt proceeding, instituted in the

Court under The Contempt of Courts Act by Reference, is not maintainable.

Question No. 3.

5. It is alleged that interim order was passed on 14-12-1990. It is further clear from the record that the cause of action arose on 12th Dec. 1995

but no notices have yet been issued by the Court, Section 20 of The Contempt of Courts Act being relevant on the point is quoted below.

20. Limitation for actions for contempt :-- No Court shall initiate any proceedings for contempt, either, on its own motion or otherwise, after the

expiry of a period of one year from the date on which the contempt is alleged to have been committed.

From the reading of the above section, it cannot be gainsaid that there is a complete bar for initiating any proceeding for contempt after expiry of

one year from the date the contempt is alleged to have been committed. As stated supra, that no notices have yet been issued and therefore, the

conclusion is irresistible that contempt proceedings are barred by virtue of the provisions of Section 20 of the Act.

6. In view of finding arrived at qua the two questions aforesaid, I think it unnecessary to enter a finding on the aspect.

7. In the backdrop of the above discussion, the contempt petition fails and is accordingly dismissed.