

Court No. - 29

Case :- WRIT - C No. - 34496 of 2019

Petitioner :- Rakesh Jain And Another

Respondent :- State Of U.P. And 14 Others

Counsel for Petitioner :- Abhinav Gaur, Anoop Trivedi
(Senior Adv.)

Counsel for Respondent :- C.S.C., Vrindavan Mishra

Hon'ble Pankaj Mithal, J.

Hon'ble Vivek Agarwal, J.

Heard Sri Anoop Trivedi, Senior Counsel, assisted by Sri Abhinav Gaur, learned counsel for the petitioner, learned Standing Counsel for respondents No. 1, 3, 4, 5 and 6 and Sri Vrindavan Mishra, learned counsel for the respondent No.2, Ghaziabad Development Authority.

The challenge in this writ petition is to the recovery pursuant to the order dated 28.10.2017 against the respondent No.15, Celebration City Projects Pvt. Ltd.

The contention of Sri Anoop Trivedi, learned counsel for the petitioners is that there is no recovery either in the name of the petitioner No.1 or petitioner No.2 and therefore, the dues of the respondent No.15 cannot be recovered from them of their properties.

The petitioner No.1 has been legally detained and arrested so as to recover the aforesaid amount. He has been forced to sign certain cheques and has been released thereafter.

Sri Vrindavan Mishra, in defence submits that the petitioner No.1 is the person behind respondent No.15 and he is one of the major shareholder therein which fact is not acceptable to the counsel for the petitioners.

Sri Vrindavan Mishra, further submits that if the corporate veil is lifted the entire responsibility to discharge the liability of respondent No.15 would ultimately fall upon the petitioner No.1.

Be as it may, the petitioners are separate legal entities other than respondent No.15 and prima facie the dues of the respondent No.15 cannot be recovered from the personal properties of the petitioners.

Sri Vrindavan Mishra, is directed to file counter affidavit within two weeks. One week thereafter is allowed to the petitioner for filing rejoinder affidavit.

List for admission/final disposal on the expiry of the above period.

Issue notice to the respondents No. 7 to 15.

Until further orders of this court, no coercive steps shall be taken against the petitioner for recovering any amount pursuant to the impugned recovery dated 30.11.2017 which is in the name of the respondent No.15 provided the petitioner No.1 surrenders his passport if any within a week with the District Magistrate, Ghaziabad and furnishes security other than cash and bank guarantee of the disputed amount as mentioned in the recovery dated 30.10.2017 within two weeks.

Any amount which has already been recovered by the respondents from the petitioner pursuant to the impugned recovery shall be invested by the respondents in a fixed deposit with a Nationalised Bank in a short term deposit subject to the decision of this petition.

Order Date :- 5.11.2019

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