

Court No. - 6

Case :- WRIT - C No. - 20578 of 2023

Petitioner :- Sumit Pratap Singh

Respondent :- Sachiv, Vitt Evam Rajsav And 5 Others

Counsel for Petitioner :- Ranjeet Singh, Anil Kumar Singh

Counsel for Respondent :- CSC, Yashwant Singh

Hon'ble Mrs. Manju Rani Chauhan, J.

The present writ petition has been filed challenging recovery citation dated 06.06.2023 issued for an amount of Rs. 3,46,713/- including interest and penalty thereon.

Brief facts of the case are that the petitioner took a loan of Rupees Ten Lakh, however, due to some difficulty he could not repay the loan amount, therefore, auction notices dated 05.10.2021 and 09.10.2021 were issued against him by the respondents. Challenging the said notices, the petitioner preferred **Writ-C No. 10721 of 2022 (Sumit Pratap Singh v. State of U.P. and 5 Others)**, wherein a Coordinate Bench of this Court passed the following order on 13.04.2022:

"1. Heard Sri Anil Kumar Singh learned counsel for the petitioner, Sri Yashwant Singh learned counsel for the respondent Bank and the learned Standing Counsel for the State respondents.

2. Challenge has been made to the auction notice dated 05.10.2021 and 09.12.2021 issued against the petitioner by the respondent Bank. Against two KCC limits, loan of Rs. 5,00,000/- each the bank is demanding Rs. 19.49 Lakhs/- to be due against the petitioner together with due interest and other charges as on 31.12.2016.

3. At the outset learned counsel for the petitioner states that loan of Rs. 10,00,000/- has been availed by the petitioner. Owing to unforeseen circumstances, the petitioner could not repay the loan. In any case the petitioner is desirous of liquidating her entire liability subject to latitude of time being granted.

4. In such circumstances, no useful purpose may be served in keeping the petition pending or for calling counter affidavit. Accordingly the present petition is disposed of with the consent of parties on the following terms:

(i). The petitioner may deposit the entire amount of Rs. 19.49 Lakhs/- together with due interest in easy installments.

(ii) The first installment of Rs. 6,00,000/- shall be paid on or before 18 April 2022.

(iii) Upon deposit of Rs. 6,00,000 /- by the petitioner, the respondent - Bank shall immediately communicate to the petitioner the exact amount being claimed from him including interest computation up to 31 March 2023 (on reducing balance).

(iv) Petitioner shall thereafter deposit the remaining amount in three equal quarterly installment of Rs. 5,00,000 /- each shall be paid on or before 31 July 2022, 31 October 2022, 31 January 2023 respectively. The remaining amount and interest (if any) being claimed by the respondent - Bank may be paid, by way of last installment, on or before 30 April 2023.

(v) Any amount that may have been deposited by the petitioner pursuant to the impugned demand notice, may be adjusted against the deposit to be made under this order.

5. Subject to the petitioner complying with all the terms of this order, no further amount may be charged by the bank and no amount shall become due by way of penalty or recovery charges as the entire amount would have been paid in compliance of directions issued under Article 226 of the Constitution.

6. In case of default of the conditions as mentioned above, the present order shall stand automatically vacated and recovery proceedings shall revive from that stage."

As directed in the aforesaid order of this Court, the petitioner had to pay the interest also, which he failed to do, thus a recovery citation has been issued against on 06.06.2023, which is under challenge in the present writ petition.

Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has paid the amount of Rs. 19.49 lakh in five installments, i.e., on 03.04.2022, 30.07.2022, 31.10.2022, 06.12.2022 and 18.04.2023. He next submits that in view of the order dated 13.04.2022, quoted above, passed in previous writ petition, neither any amount should have been treated as due nor was to be charged by the Bank by way of penalty or recovery charges in case installments are paid timely.

After placing his arguments and contesting the matter on merits to the above extent, learned counsel for the petitioner submits that some time may be granted to deposit the amount in question.

Sri R.G. Pathak, learned Advocate holding brief of Sri Yashwant Singh, learned counsel for the respondent Bank submits that the petitioner has made default in payment of interest part, therefore, the recovery citation has been issued

and as on date the interest on the amount of Rs. 19.49 lakhs has been calculated as 3,46,713/-.

This Court feels that this is the second writ petition and there is no illegality in issuance of recovery citation as the same has been issued in compliance of the earlier order of this Court, however, in the interest of justice it is provided that in case the petitioner deposits Rs. 3,46,713/- by 17.11.2023, no coercive action shall be taken against him. In case the petitioner fails to deposit the amount within stipulated time, it shall be open for the respondent authorities to proceed in accordance with law.

The writ petition stands disposed of accordingly.

No order as to costs.

Order Date :- 12.10.2023

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