

Court No. - 6

Case :- WRIT - C No. - 29744 of 2023

Petitioner :- Chandrama Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Jagannath Singh, Yadvendra Yadav

Counsel for Respondent :- CSC, Manoj Nigam

Hon'ble Mrs. Manju Rani Chauhan, J.

Heard Mr. Yadvendra Yadav, learned counsel for the petitioner, Mr. Manoj Nigam, learned counsel for the respondent-Bank and learned Standing Counsel for the respondent-State.

This writ petition has been filed by the petitioner with a prayer to quash the recovery certificate dated Nil issued by the respondent no.4 as well as all subsequent recovery proceedings against the petitioner in pursuance of mortgage deed dated 20.03.2013 executed by the petitioner in favour of the respondent no.4.

Learned counsel for the petitioner submits that the petitioner had taken a loan of Rs.1,80,000/- from the concerned bank for Poultry Farm, i.e. agricultural loan for which he had mortgaged a property by which mortgage deed dated 20.03.2013 was executed in favour of the respondent no.4. When the petitioner could not pay the certain installments, recovery citation of Rs.6,02,523/- was issued against the petitioner. He further submits that the aforesaid recovery is illegal as the same has been issued in violation of provisions of Act 1964 read with Rules 1971. He further submits that the recovery citation has not been issued by the Registrar, U.P. Co-operative Societies, Lucknow as required under Rule 45(2) of U.P. Sahkari Gram Vikas Banks Rules, 1971. In support of his contention, he has relied upon the judgment of this Court in the case of *Shesh Bahadur vs. State of U.P. and others reported in 2009(3) ADJ 588 (DB)*.

On the other hand, learned counsel for the respondent-Bank submits that the rules as relied upon by the counsel for the petitioner is applicable in the case of sureties and not for in cases where the loan is taken after executing mortgage deed. In the present case, it is rule 95(A) of U.P. Co-operative Societies Act 1965, which is applicable.

Learned counsel for the respondent-Bank has placed the instructions to show that the Registrar has placed letter before the District Magistrate for recovering the amount due to the petitioner as against the loan taken by him towards mortgage. Therefore, no interference is required.

In view of the above, the relief as prayed cannot be granted as there is no illegality or infirmity in the impugned recovery citation.

The writ petition lacks merit and is, accordingly, ***dismissed***.

Order Date :- 16.10.2023

Jitendra/-