

Court No. - 6

Case :- WRIT - C No. - 34284 of 2023

Petitioner :- Smt. Surendri Devi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Rajesh Kumar Pandey

Counsel for Respondent :- C.S.C., Vivek Kumar Rai

Hon'ble Mrs. Manju Rani Chauhan,J.

Heard Mr. Rajesh Kumar Pandey, learned counsel for the petitioner, Mr. Vivek Kumar Rai, learned counsel for respondent no.5-Bank and learned Standing Counsel for the State-respondents.

The writ petition has been filed by the petitioner with prayer to direct respondent no.2 to decide the representation dated 20.07.2023, within stipulated period and a further prayer to stay the recovery proceedings initiated against the petitioner by the respondent authorities with respect to loan amount.

Learned counsel for the petitioner submits that earlier the petitioner approached this Court by means of filling Writ-C No.20760 of 2023 (Smt. Surendri Devi vs. State of U.P. and 3 Others) in which the following orders were passed :-

"Heard Mr. Rajesh Kumar Pandey, learned counsel for the petitioner and Mr. Vivek Kumar Rai, learned counsel for the respondents.

With the consent of learned counsel for the parties, this writ petition is being finally disposed of at this stage without calling for a counter affidavit.

This writ petition has been filed for issuing a writ of certiorari quashing the recovery certificate dated 24.02.2023 issued against the petitioner.

The petitioner had taken a loan from the Bank, but due to default having been committed by the petitioner in making timely repayments of that loan, recovery proceedings have been initiated against him.

Learned counsel for the petitioner submits that the petitioner is ready to deposit the entire recovery amount within the time fixed by this Court.

Learned counsel appearing for the bank fairly states that the bank is interested in realizing the entire amount alongwith interest. If the petitioner deposits the amount within the time allowed by this Court, no further action shall be taken against the petitioner by the Bank.

On the facts & circumstances of the case and in the interest of justice, the

present writ petition is disposed of with the following directions:

(i) Petitioner shall deposit a sum of Rs. 50,000/- within one month from today. Thereafter the entire balance amount shall be deposited in two equal bi-monthly installments.

(ii) The installments shall be deposited in first week of respective calendar month.

(iii) Recovery proceedings during this period will be kept in abeyance. In case petitioner commits default in depositing any of the installments within the above stipulated time, it will be open to the respondents to start recovery proceedings again by taking coercive process to which the petitioner undertakes not to challenge.

(iv) Petitioner may file an application for supply of statement of account along with the duly stamped self addressed envelope. In case any such application is filed, the concerned branch of the Bank will give the same to the petitioner within fifteen days from the date of deposit of the first installment and in calculating the arrears, the amount (if any) already paid will be adjusted.

(v) If the entire amount is deposited by the petitioner, as directed above, no recovery charges shall be realized from the petitioner.

(vi) If any fact stated by the petitioner is found to be incorrect, it will be open for the authorities to move an application for modification/recall of the order."

Pursuant to the aforesaid order, he made a payment of Rs.50,000/- on 02.08.2023 but the statement of account has not been provided to him. As per his calculation, the petitioner had to deposit the rest of the amount in two equal bi-monthly installments but as he is disputing the amount to be deposited, he moved a representation before respondent no.2-District Magistrate, Bulandshahr in which no decision has been taken till date, therefore a direction may be issued to respondent no.2 to decide the same, within stipulated period.

Learned counsel for respondent-Bank submits that statement of account has already been provided to him and once he has already availed the remedy by filing a writ petition, this in so many words amounts to second writ petition.

No useful purpose would be served by keeping this petition pending in view of the order, which the Court proposes to pass hereunder.

Considering the facts and circumstance of the case and without expressing any opinion on the merits of the case, this writ petition is finally **disposed off** with a direction to the respondent no.2-District Magistrate, Bulandshahr to decide the representation so filed by the petitioner, and pass appropriate

order, in accordance with law, by means of a reasoned and speaking order, after giving opportunities of hearing to the parties concerned, as expeditiously as possible, without granting any unnecessary or long adjournments to either of the parties, preferably within a period of **one month**, from the date of production of certified copy of this order, if there is no legal impediment.

Order Date :- 1.11.2023

Kalp Nath Singh