

Court No. - 6

Case :- WRIT - C No. - 35817 of 2023

Petitioner :- Aadhar Rastogi And Another

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

Counsel for Petitioner :- Satyvratt Tripathi, Avesh Pratap Singh

Counsel for Respondent :- C.S.C., Dharmendra Vaish

Hon'ble Mrs. Manju Rani Chauhan, J.

Heard Mr. Avesh Pratap Singh, learned counsel for the petitioners, Mr. Dharmendra Vaish, learned counsel for respondent-Bank and learned Standing Counsel for the State-respondents.

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

The present petition has been filed with a prayer to quash the recovery certificate dated 29.08.2023 issued by respondent no.3, with a further prayer to direct the respondent-Bank not to take the physical possession over the property which is mortgaged against the agricultural loan and accept the loan amount without interest in east installments within stipulated period.

Learned counsel for the petitioners submits that petitioners' ancestor namely, Abhinash Chandra Rastogi had taken loan of Rs.10,00,000/- on 23.01.2015 under the scheme of Kisan Credit Card from respondent-Bank, for agricultural purpose. Further the ancestor of the petitioners had also taken credit loan of Rs.10,00,000/- on 13.09.2017. Mr. Abhinash Chandra Rastogi died on 17.01.2018, leaving behind his legal heirs i.e. petitioner nos.1 and 2. After the death of petitioners' ancestor the outstanding

towards loan could not be deposited. He further submits that without any notice or providing statement of account to the petitioners, recovery certificate for the amount of Rs.39,90,410/- has been issued. He further submits that petitioners are ready and willing to pay the loan amount in easy installments within the time fixed by this Court.

On the basis of instructions, learned counsel for respondent-Bank submits that as on date the outstanding amount towards loan is Rs.39,90,410/-. He further states that the Bank is interested in realizing the entire amount alongwith interest and if the petitioners deposit the amount within the time granted by this Court, no further action shall be taken against the him by the Bank. The statement of account will be provided to the petitioners within one month.

Considering the facts and circumstances of the case and in the interest of justice, the present writ petition is **disposed off** with the following directions:-

(i) Petitioners shall deposit a sum of Rs.4,00,000/- of the amount on or before 05th December, 2023. Thereafter, the entire balance amount shall be deposited in **eight equal quarterly 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 petitioners commit 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 petitioners undertake not to

challenge.

(iv) Petitioners 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 petitioners within fifteen days from the date of deposit of the first installment and in calculating the arrears, the amount (if any) already paid be adjusted.

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

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

Order Date :- 27.10.2023
Rahul.