

Court No. - 3

Case :- WRIT - C No. - 39139 of 2023

Petitioner :- Mansoor Vastralay And Readymade Garments

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Girja Shanker Mishra,Pratiksha Rai

Counsel for Respondent :- C.S.C.,Vinay Kumar Singh

Hon'ble Siddhartha Varma,J.

Hon'ble Shekhar B. Saraf,J.

1. The instant petition is directed against the citation to appear dated 4.10.2023 seeking to recover the defaulted sum along with interest from the petitioners in respect of financial assistance given to the petitioners by way of CC Working Capital (term loan) by respondent No.3.

2. The submission of learned counsel for the petitioner is that the loan taken by the petitioner was purely a commercial transaction and there is no stipulation in the agreement that the Bank would be entitled to recover the defaulted sum by taking recourse to the provisions of the U.P. Public Money (Recovery of Dues) Act, 1972. It is submitted that the respondent-Bank had already initiated proceedings for recovery against the petitioners by invoking the machinery provided under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In support of his contention, he has placed reliance on a Full Bench Judgment of this Court in **Smt. Sharda Devi Vs. State of U.P. & Ors. AIR 2002 All 1.**

3. Learned counsel appearing for respondent no.3 concedes to the above legal position.

4. Consequently, the impugned recovery citation dated 4.10.2023 is quashed leaving it open to the respondent-Bank to recover the amount by taking recourse to such other machinery, as may be advised.

5. The petition stands disposed of, accordingly.

Order Date :- 30.11.2023

Kuldeep

(Shekhar B. Saraf,J.)

(Siddhartha Varma,J.)