

Court No. - 17

Case :- WRIT - C No. - 8835 of 2023

Petitioner :- Ram Bilas

Respondent :- State Of U.P. Thru. District Collector Hardoi And 2 Others

Counsel for Petitioner :- Rishabh Srivastava

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

Hon'ble Alok Mathur,J.

1. Heard Sri Rishabh Srivastava, learned counsel for the petitioner as well as learned Standing Counsel for respondent no. 1 and Sri Sanjeev Kumar Singh, learned counsel appearing for respondent nos. 2 and 3. Supplementary affidavit filed today is taken on record.

2. By means of present writ petition the petitioner has challenged the recovery order dated 23.02.2023, passed by the respondent - Bank for an amount of Rs.44,01,829/- issued against the petitioner.

3. It has been submitted by learned counsel for the petitioner that petitioner has taken loan of Rs.2,40,000/- on 28.11.2000 from the respondent - Bank. It is submitted that the petitioner could not repay the said loan and consequently, recovery proceedings have been initiated against him. It has been fairly submitted by learned counsel for the petitioner that petitioner had filed four writ petitions before this Court prior to filing of the present writ petition. The first writ petition being Writ Petition No. 4988 (M/S) of 2005, which was disposed of by this Court directing the petitioner to pay the outstanding loan amount in instalments. The petitioner could not pay the said amount and consequently the outstanding loan against the petitioner kept on increasing.

4. The petitioner preferred second writ petition being Writ Petition No. 5480 (M/S) of 2006, which was again disposed of by this Court directing the respondents to decide petitioner's representation. The said order passed by this Court was complied with and representation was decided which order was again assailed before this Court by means of Writ Petition No. 1425 (M/S) of 2007, which was rejected by means of order dated 30.03.2022. The Court while rejecting the said writ petition has observed that petitioner has efficacious remedy of filing objections against the auction proceedings under Section 285(1) of U.P. Z.A. & L.R. Act and that the petitioner did not file any objections before the Commissioner, hence no interference was made by the Court. The petitioner filed yet another writ petition being Writ Petition No. 10097 (M/B) of 2007, which was dismissed as withdrawn on 11.09.2007.

5. By means of present writ petition the petitioner has approached this Court assailing the notice of recovery where an amount of Rs.44,01,829/- is sought to be recovered from the petitioner on account of non-repayment of outstanding loan amount.

6. It is submitted by learned counsel for the petitioner that initially the loan amount was Rs.2,40,000/- and the respondents have also auctioned the mortgaged land and still such huge outstanding amount is sought to be

recovered. It is submitted that the respondents shall be directed to provide statement of account and only after seeking objections from the petitioner, the respondents shall proceed with the recovery.

7. Learned counsel for the respondents on the other hand has submitted that against the recovery which has been assailed in the present writ petition, the petitioner has an equally efficacious alternative remedy of suit for rendition of account before the Civil Court and in the matter involving disputed questions of fact, writ petition would not be maintainable.

8. Learned counsel for the petitioner admits the fact that petitioner has an alternate remedy of suit for rendition of account before the Civil Court and he may be relegated to avail the remedy of suit.

9. In the light of above and also considering the fact that disputed questions of fact are involved in the present matter with regard to the amount sought to be recovered against the petitioner and also that petitioner has already approached this Court previously by filing four writ petitions on various grounds coupled with the fact that petitioner has equally efficacious remedy of filing civil suit, he is relegated to the remedy before civil Court.

10. Accordingly, present writ petition is **dismissed** on the ground of alternate remedy.

11. However, in case any suit is filed by the petitioner within next two weeks before the competent Court, the Court shall proceed to decide the same expeditiously.

Order Date :- 16.10.2023/A. Verma

(Alok Mathur, J.)