

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 229 of 2016**

1. Smt. Puspa Singh W/o Dr. Bhanu Pratap Singh, Aged About 53 Years
Proprietor Ravi Wires Product, R/o Shyam Nagar, Katora Talab Road,
Raipur, Tahsil & District Raipur (Chhattisgarh)

**---- Appellant
(Petitioner)**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue,
Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Tahsildar, Raipur, District Raipur (Chhattisgarh)
3. Dena Bank, Through The Branch Manager, Gudiyari Branch, Raipur
(Chhattisgarh)

---- Respondents

For Petitioner:

Shri Jitendra Pali, Advocate.

For Respondents No.1 & 2:

Shri Vivek Sharma, Govt. Advocate.

For Respondent No.3:

None.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Chandra Bhushan Bajpai

Judgement

Per P. Diwaker, J

05/09/2016

1. This writ appeal arises out of the order dated 6.2.2015 (Annexure A-1)
passed by the learned Single Judge in Writ Petition No.1906/2001
dismissing the writ petition.
2. Brief facts of the case are that on 5.8.1988 the petitioner/appellant had
taken commercial loan of Rs.2,85,000/ from the respondent No.3-bank for
business purpose and towards security of said loan mortgaged residential

plot of her son by depositing sale deed to respondent No.3-bank. The appellant made defaults in repayment of loan and could pay only Rs.1,00,000/- against the said loan and therefore recovery proceedings commenced against the petitioner/appellant herein under the provisions of M.P. Lok Dhan (Shodhya Rashion Ki Vasuli) Adhiniyam, 1987 (henceforth 'the Adhiniyam, 1987"). The petitioner/appellant objected to the very initiation of recovery proceedings on the ground that the provisions of the Adhiniyam, 1987 are not applicable to her . Respondent No.2 vide order dated 31.8.2001 not only rejected the said objection of the petitioner but also issued Recovery Certificate for recovery of Rs.4,96,000/- along with interest accrued thereon. Aggrieved therewith the petitioner preferred writ petition before this Court seeking quashment of the order dated 31.8.2001 inter alia on the ground that recovery certificate issued by respondent No.2 being strictly in accordance with the Adhiniyam, 1987 and the Rules made thereunder is absolutely illegal as the loan advanced to the petitioner was commercial loan for business purpose after mortgaging property of her son and therefore it is not covered under the relevant provisions of the Adhiniyam, 1987. Learned Single Judge vide order impugned dismissed the writ petition holding that the respondent No.2 has rightly rejected the objection raised by the petitioner because the commercial loan advanced to her is duly covered under the notification issued under clause (I) of Section 2 of the Adhiniyam, 1987.

3. Counsel for the appellant submits that the provisions of the Adhiniyam, 1987 in particular Section 3 (I) (B), has wrongly been interpreted by the writ Court and the loan advanced to the appellant cannot be recovered under the provisions of the Adhiniyam, 1987.

4. On the other hand, counsel for the respondent-State submits that the

learned writ Court considering all the aspects of the case has rightly passed the order impugned and there is no illegality or infirmity in it calling for any interference by this Court

5. We have heard counsel for the parties and perused the impugned order.
6. From the documents on record it is quite apparent that the appellant, Proprietor of Small Scale Industry, had taken loan for business purpose by offering security of the property belonging to her son. While hearing the writ appeal we have also taken note of the Notification No.F.12-5-88-IF-IV dated 5.11.1988 issued in exercise of powers conferred by clause (I) of Section 2 of the Adhiniyam, 1987 which clearly stipulates that the loan secured for the purpose of carrying commercial on activities to small scale industry, like the appellant herein, is very much covered by the Adhiniyam, 1987. This apart, Section 3 (1) (B) of the Adhiniyam, 1987 also provides for recovery of certain dues as arrears of land. Thus, the Single Judge while dismissing the petition preferred by the appellant herein has dealt with all the aspects of matter and therefore this Court does not find any reason to disturb the well reasoned order passed by the writ Court.
7. Accordingly, this writ appeal has no substance and is liable to be dismissed. It is dismissed as such.

Sd/-

(Pritinker Diwaker)
Judge

Sd/-

(C.B. Bajpai)
Judge