

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1551 of 2016

Date of Decision: 25.1.2016

Harpreet Singh

....Petitioner.

Versus

Union of India and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Jaideep Verma, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for setting aside the order dated 22.9.2011 (Annexure P-7) passed by respondent No.3 and the recovery notice dated 21.9.2015 (Annexure P-5) issued by respondent No.5 being contrary to the order dated 9.6.2011 (Annexure P-6) passed by respondent No.2.

2. The father of the petitioner, namely, Late Shri Amarjit Singh was sole proprietor of M/s K.P. Hosiery, Ludhiana and was engaged and managed in the affairs of the firm as per I-Card No. 622/03/CLA (Annexure P-1) valid from 3.1.2003 to 31.12.2005 issued by the Foreign Department. In the year 2002, both the kidneys of the father of the petitioner were damaged and he was shifted to dialysis. The father of the petitioner sold his entire properties including House No. 3552/3,

Cheema Park, Model Gram, Ludhiana to one Parminder Singh Chawla vide registered sale deed dated 30.7.2004. He died on 31.12.2005 as per death certificate dated 2.2.2006 (Annexure P-2). During his treatment, the father of the petitioner had taken loan from the State Bank of India, Chaura Bazar, Ludhiana by mortgaging a property jointly owned by the petitioner and his father in equal share. The petitioner had only inherited the said property from his father after his death and sold the said property in October, 2013 to one Raj Kumar for a sum of ₹ 10 lacs in order to repay the loan amount of ₹ 13 lacs and this fact is discernible from the copy of the statement of accounts dated 14.10.2015 (Annexure P-3) and the affidavit dated 21.1.2016 (Annexure P-4). A notice dated 21.9.2015 (Annexure P-5) was received by the petitioner for recovery of ₹ 12 lacs by projecting him as proprietor of M/s K.P. Hosiery. The said recovery was based upon the order dated 9.6.2011 (Annexure P-6) passed by respondent No.2. In pursuance to the order, Annexure P-6, respondent No.3 had directed respondent No.4 vide order dated 22.9.2011 (Annexure P-7) for recovery of the said amount from the firm as well as the petitioner being proprietor of the firm. The petitioner sent a representation dated 7.10.2015 (Annexure P-8) to the respondents that the loan amount of ₹ 13 lacs was paid by him by selling the property, but to no effect. The petitioner filed CWP No. 22931 of 2015 which was dismissed as withdrawn by this Court vide order dated 29.10.2015 (Annexure P-9) with liberty to pursue the remedy before the appropriate authority. Thereafter, the petitioner served a legal notice dated 31.10.2015 (Annexure P-10) upon the respondent. When no action was taken thereon, the petitioner moved representations, Annexures P-11 to P-15 to the respondents to initiate recovery proceedings as per the order

dated 9.6.2011 (Annexure P-6), but all in vain. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a legal notice dated 31.10.2015 (Annexure P-10) to the respondents followed by the representations, Annexures P-11 to P-15, respectively, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to decide the legal notice dated 31.10.2015 (Annexure P-10) followed by the representations, Annexures P-11 to P-15, respectively, in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

January 25, 2016
gbs

(RAJ RAHUL GARG)
JUDGE