
(2007) 12 UK CK 0009
In the Uttarakhand High Court
Case No : Special Appeal No. 188 of 2007

Anand Prakash

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 06-12-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 8 UC 676

Hon'ble Judges : Rajeev Gupta, C.J.; J.C.S. Rawat, J

Bench : Division Bench

Advocate : Navneet Kaushik, for the Appellant; Ashish Joshi, Brief Holder, for the Respondent

Final Decision : Dismissed

Judgement

Rajeev Gupta, C.J.—Sri Navneet Kaushik, Advocate for the Appellant.

Sri Ashish Joshi, Brief Holder for Respondents 1 and 2.

None for Respondent No. 3.

They are heard on admission.

2. Appellant Anand Prakash has filed this Special Appeal against the impugned judgment dated 23-11-2007 passed in Writ Petition No. 2352 (M/S) of 2007.

3. Appellant Anand Prakash had filed the writ petition for the following reliefs:

I. Issue a writ, rule, order or direction in the nature of Certiorari quashing the impugned recovery notice dated 1-11-07 (Annexure-2) passed by Respondent No. 2.

II. To issue a writ order or direction fixing easy installments for paying the balance loan amount.

III. Issue any other order or direction, which this Hon'ble Court may deem fit

and proper under the circumstances of the case.

IV. A ward cost of the petition in favour of the Petitioner.

4. The Petitioner, in substance, was seeking quashing of the recovery notice dated 01-11-2007, whereby the sum of Rs. 8,83,315/- plus expenses were sought to be recovered from the Petitioner. In addition, the Petitioner was also seeking a writ of mandamus directing the Respondents to fix easy instalments for re-payment of the loan amount, which was sought to be recovered by the Bank.

5. The learned Single Judge, in view of the admitted facts of taking of the loan of Rs. 9,00,000/- from the Respondent Bank and the default in paying the instalments, declined to exercise the discretionary jurisdiction under Article 226 of the Constitution of India. Consequently, the writ petition was dismissed vide impugned judgment dated 23-11-2007.

6. Sri Navneet Kaushik, the learned Counsel for the Appellant, could not dispute the fact of taking of the loan of Rs. 9,00,000/- by the Appellant from the Respondent Bank and so also, the fact of default in paying the instalments towards the loan amount.

7. In view of the above admitted facts, we do not find any infirmity in the impugned judgment, which may warrant interference in this Special Appeal.

8. That apart, it is not for the Courts to fix easy instalments for re-payment of the loan amount as it is entirely for the Banks and the financial institutions to grant or not to grant the facility of easy instalments to the defaulters in the facts and circumstances of a given case.

9. For the foregoing reasons, the Special Appeal is liable to be dismissed and is hereby dismissed summarily.