

(1985) 04 AHC CK 0022

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 14711 of 1984

A.S. Bindra

APPELLANT

Vs

The Munsif Ist and Others

RESPONDENT

Date of Decision : 05-04-1985

Acts Referred:

Uttar Pradesh Agricultural Credit Act, 1973 — Section 11, 11(1), 11(3), 11(4), 11A

Citation : (1985) AWC 526

Hon'ble Judges : B.D. Agarwal, J

Bench : Single Bench

Advocate : L.P. Naithani, for the Appellant;

Final Decision : Dismissed

Judgement

B.D. Agarwal, J.—Learned Counsel contends that since there is application made u/s 11-A of the U.P. Agricultural Credit Act, 1973 (U.P. Act 19 of 1973 (as amended) there is implied bar against the suit by the Respondent No. 2 being proceeded with Section 11 of the U.P. Act 19 of 1973, contained originally Sub-section (4) which provided that no suit for recovery of any sum due to a bank on account of financial assistance given to an agriculturist shall lie in the civil court. There is no dispute that this Sub-Section 4 has been omitted by the U.P. (Amendment) Act 19 of 1975. Section 11 consequently does not contain any bar to a suit being brought in the civil court for recovery of the amount. Sub-section (3) of Section 11 provides that every order passed by the prescribed authority in terms of Sub-section (1) or by the appellate authority u/s 12 shall be deemed to be a decree of civil court and shall be executed in the same manner as a decree of such court by the civil court having jurisdiction. On the basis of this sub-section it cannot be argued that there is bar against the institution of such suit. Sub-section (3) only provides the manner in which the order of the prescribed authority under Sub-section (1) can be given effect to or implemented. Moreover so far as Section 11 inserted by the U.P. Amendment Act 19 of 1975 is concerned, there is no provision therein corresponding to Sub-section (3) of

Section 11 meaning thereby that the filing of an application u/s 11-A cannot on its force be claimed to preclude the maintainability of the suit for the recovery of the amount.

2. Learned Counsel contends also that since recourse to summary proceeding u/s 11-A has been taken, it does not remain open to the other side to proceed simultaneously by way of a suit. This also is without merit. Mere existence of alternative remedy in the form of summary proceedings, does not prevent recourse to suit as is now settled by the Supreme Court in the case of Maganlal Chhaganlal (P) Ltd. Vs. Municipal Corporation of Greater Bombay and Others, . In fact so far as the remedy by way of suit is concerned, the Petitioner can have no legitimate grievance. There is in this adequate opportunity to him to raise his defence and lead evidence with right to appeal etc. available.

3. For the reasons given above, the writ petition is devoid of substance and dismissed summarily.