
(2009) 05 GUJ CK 0008
In the Gujarat High Court
Case No : S.C.A. No. 1424 of 2009

Balbir Kumar Paul

APPELLANT

Vs

Bank of Baroda and Others

RESPONDENT

Date of Decision : 06-05-2009

Acts Referred:

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 19(23)

Citation : AIR 2010 Guj 83 : (2010) 1 BC 310 : (2010) 7 RCR(Civil) 794

Hon'ble Judges : R.R. Tripathi, J

Bench : Single Bench

Advocate : Bharat T. Rao, for the Appellant; B.D. Karia, for the Respondent

Final Decision : Allowed

Judgement

Ravi R. Tripathi, J.—The present petition is filed by the petitioner challenging the order passed by the Recovery Officer on 27.1.2009 confirming the sale of immovable property of the petitioner being land and building, particularly Plot No. 2, Shital Ganj, Bulandshahr, U.P. and recovery proceeding No. 149 of 2006, it is the case of the petitioner that the recovery officer had no jurisdiction to pass any order as the property is situated beyond the local limits of the jurisdiction of the Tribunal who had issued the certificate of recovery.

(Emphasis supplied)

2. Having heard learned Advocate Mr. B.T. Rao for the petitioner, matter requires consideration.

3. Rule. Mr. B.D. Karia, learned Advocate appearing for Bank of Baroda who is the main contesting party, who is the certificate holder, waives service of notice of Rule. The other parties are not the contesting parties.

4. Taking into consideration, the provisions of Sub-section (23) of Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, which reads as under:

Section 19(23). Where the Tribunal, which has issued a certificate of recovery, is satisfied that the property is situated within the local limits of the jurisdiction of two or more Tribunals, it may send the copies of the certificate of recovery for execution to such other Tribunals where the property is situated:

Provided that in a case where the Tribunal to which the certificate of recovery is sent....

(Emphasis supplied)

The proviso is not relevant for the purpose of the present case. So far as Sub-section (23) is concerned, the Tribunal has to be satisfied about the location/situation of the property and if the property is not situated within the local limits of jurisdiction of the Tribunal, the Tribunal has to send the said recovery certificate to the Tribunal within whose local limits of jurisdiction the property is situated.

5. In the present case, it is not in dispute that the property is situated at Shital Ganj, Bulandshahr, U.P. That being so, the Tribunal ought to have send the same to the concerned Tribunal similarly the recovery officer ought to have held that the recovery certificate cannot be executed here and the recovery officer had no jurisdiction to pass any order. That being so, the order passed by the recovery officer is hereby quashed and set aside. The Tribunal is expected to send recovery certificate to the concerned Tribunal within whose local limits of jurisdiction, the property is situated.

6. It is clarified, at the request of learned Advocate Mr. Karia for Bank of Baroda, that quashing of the order passed by the recovery officer will not prejudice the rights of the certificate holder and the question of sending the recovery certificate to the Tribunal within whose local limits of jurisdiction the property is situated will be decided by the Tribunal in accordance with law.

7. With the above observations, the petition is allowed.

8. Rule is made absolute. No order as to costs.