(1999) 02 AHC CK 0105

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 7584 of 1999

Dwarika and Another APPELLANT

Vs

Pargana Adhlkari/Collector of Shahjahanpur and Another RESPONDENT

Date of Decision : 26-02-1999

Acts Referred:

Citation : (1999) 02 AHC CK 0105

Hon'ble Judges : O.P.Garg, J

Final Decision : Disposed Of

Judgement

O.P. Garg, J.—By means of this writ petition, the recovery proceedings have been challenged and it is prayed that the citation of recovery issued by the respondentBank be quashed.

Heard the learned counsel for the parties.

2. The petitioners had taken a loan for agricultural purposes. The petitioners admit their liability to pay the outstanding dues of loan but have taken the plea that certain amounts, which have been deposited, have not been properly adjusted credited and that the compound interest as well as collection charges are not recoverable. It is further stated that the respondentBank be directed to furnish a statement of the outstanding dues. All the questions of fact raised in this writ petition cannot be gone into and sifted by this Court in writ jurisdiction. These aspects of the matter can properly be decided by respondentBank.

3. This writ petition is finally disposed of with the direction that the petitioners shall make a representation to the respondentBank detailing therein all their grievances and mentioning about the various amounts deposited by them along with a certified copy of this order within 15 days from today. After receipt of the representation of the petitioners. The respondent Bank shall furnish a detailed statement of account of outstanding dues after adjustment of the amount, if any, already deposited by! the petitioners, within a period of 15 days from the date of receipt of the representation. The balance amount of outstanding dues shall be

paid by the petitioners in four bimonthly instalments, three of which will be of equal amount whereas the fourth and final instalment shall contain the entire balance amount including interest etc. First instalment shall be payable on or before 31399, second on or before 31599, third on or before 31799 and the last instalment shall payable on or before 30999.

4. In the light of the above prescription the recovery proceedings shall''remam in abeyance. In case, however, the petitioners commit default in payment of any one of the instalments, as aforesaid, the entire or the balance amount, as the case may be, shall become recoverable all atonce and the recovery proceedings shall revive.

5. Needless to say that in view of the decision in Seth Banarsi Das v. District Magistrate/Collector Meerut, (1996) 2 SCC 689 :1996 (1) JCLR 867 (SC) and Mirza Javed Murtaza v. U.P. Financial Corporation Kanpur and another, AIR 1983 Allahabad 234 as well as recent decision in M/s Asha Textiles Pvt. Ltd. and others v. State of U.P. and others, 1998ALR(33) 417 : 1998 (1) JCLR 899 (All), no collection charges can be levied unless auction takes place of action towards recovery of the amount is taken. In the instant case, if the auction has not taken place, in that event the respondentBank, is not entitled to realise collection charges. As regards realisation of compound interest, the respondentBank shall take into consideration the decision of the Supreme Court in Corporation Bank v. Gowda and another, JT1994 (7) SC 87, as well as, the guidelines circulated by the Reserve Bank of India with regard to the agricultural loan, and shall pass appropriate orders in the light thereof. Petition disposed of.