
(2002) 01 MP CK 0042
In the Madhya Pradesh High Court
Case No : Writ Petition No. 6630 of 2001

M.L. Chaurasia

APPELLANT

Vs

Tehsildar, Balaghat and Others

RESPONDENT

Date of Decision : 04-01-2002

Acts Referred:

Madhya Pradesh Lok Dhan (Shodhya Rashion Ki Vasuli) Adhiniyam, 1987 — Section 3
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 17, 18

Citation : AIR 2002 MP 151 : (2002) 2 MPHT 480 : (2002) 3 MPLJ 134

Hon'ble Judges : Arun Mishra, J

Bench : Single Bench

Advocate : P.N. Dubey, for the Appellant; Ajay Mishra, for the Respondent

Final Decision : Dismissed

Judgement

Arun Mishra, J.

Learned counsel for the petitioner submits that no Court or authority or jurisdiction to issue Land Revenue Recovery certificate in view of Section 17 read with Section 18 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, and there is specific bar under the said provisions. The challenge of the petitioner is to a recovery initiated u/s 3 of the Madhya Pradesh Lok Dhan (Shodhya Rashion Ki Vasuli) Adhiniyam, 1987 (Act No. 1 of 1988). Certain loan was advanced to the petitioner and revenue recovery certificate/overdraft was also drawn. Land Revenue Certificate amounting to Rs. 40,60,000/- has been received. Recovery of which is being made under the Madhya Pradesh Lok Dhan (Shodhya Rashion Ki Vasuli) Adhiniyam, 1987.

The reliefs claimed in the instant writ petition is to the following effect:--

It is, therefore, prayed that this Hon"ble Court be pleased to :

(i) issue a writ in nature of writ of certiorari for quashing Annexure P-1 and further to declare that respondent Nos. 1, 3 and 4 have absolutely no legal

authority or jurisdiction to proceed with recovery process under the provisions of Madhya Pradesh Lok Dhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam, 1987, as the same is barred under Central Act;

(ii) to grant any other relief deemed proper to the facts and circumstances of the case.

Sections 17 and 18 of the Recovery of the Debts Due to Banks and Financial Institutions Act, 1993 are reproduced as below :--

"17. Jurisdiction, powers and authority of Tribunals.-- (1) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.

(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Act.

Bar of jurisdiction.-- On and from the appointed day, no Court or other authority shall have or be entitled to exercise, any jurisdiction, powers of authority (except the Supreme Court, and a High Court exercising jurisdiction under Articles 226 and 227 of the Constitution) in relation to the matters specified in Section 17."

Bare reading of Section 17 makes it clear that jurisdiction of the Tribunal is to decide the applications filed by the banks and financial institutions for recovery of debts due to a bank and financial institutions and that power and jurisdiction is barred to be exercised by any Court or other authority as per Section 18. The jurisdiction conferred u/s 17 on the Tribunal is ousted from the jurisdiction of the Court or other authority. The matters enumerated in Section 17 are barred. u/s 3 of Madhya Pradesh Lok Dhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam, 1987, certificate of recovery can be sent directly for the recovery to the authorities mentioned therein which by itself recoverable. Jurisdiction of M.P. Act cannot be said to ousted in any manner by Sections 17 and 18 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993. The said Act does not oust the jurisdiction in any manner which is to be exercised u/s 3 of Madhya Pradesh Lok Dhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam, 1987. There is no overlapping between these two provisions. This Court in *New Laxmi Oil Mills, Barwaha Vs. Bank of India, Barwaha and Others*,], examined the competence of the State to enact the law and the provisions of MP, Act have been held to be intravires.

Thus the submission of learned counsel for the respondent that the Act itself stands inoperative by the provisions of Section 18 read with Section 17 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 cannot be accepted.

The provisions of two Acts are independent and there is no overlapping between these two Acts, the jurisdiction of the recovery of money by the Recovery Officer under M.P. Lok Dhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam, 1987, is not

ousted by the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

The writ petition is without any merit and is dismissed. C.C. as per rules.