

(2011) 05 AHC CK 0067
In the Allahabad High Court
Case No : C.M.W.P. No. 19238 of 2011

M/s. Debnath Enterprises and another	APPELLANT
Vs	
Oriental Bank of Commerce and others	RESPONDENT

Date of Decision : 13-05-2011

Acts Referred:

Citation : (2011) 5 AWC 5175 : (2011) 113 RD 743

Hon'ble Judges : S.P. Mehrotra, J;Rajesh Chandra, J

Bench : Division Bench

Judgement

S.P. Mehrotra and Rajesh Chandra, JJ.—The petitioner took Cash Credit Facility from the respondent No. 1-Oriental Bank of ommerce.

2. The petitioners committed default in respect of the said facility. Consequently, proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the Securitisation Act") have been initiated against the petitioners. Possession Notice dated 26.3.2010 (Annexure 6 to the Writ Petition) has been issued.

3. However, in the mean-time, a Recovery Certificate dated 8.12.2010 (Annexure 8 to the Writ Petition) was sent by the respondent No. 1-Oriental Bank of Commerce to the District Magistrate/Collector, Jhansi (respondent No. 3). Copy of the Recovery Certificate dated 8.12.2010 has been filed as Annexure 8 to the Writ Petition. The said Recovery Certificate purports to be under the provisions of U.P. Public Moneys (Recovery of Dues) Act, 1972.

4. By the Order dated 20th April, 2011, Shri L.K. Shukla, learned Counsel for the respondent No. 1 was granted time to obtain instructions particularly in regard to the question as to whether the recovery in respect of the Cash Credit Facility could be made as arrears of land revenue.

5. Shri L.K. Shukla, learned Counsel for the respondent No. 1 states that instructions have since been received by him, and as per the said instructions,

Recovery Certificate dated 8.12.2010 was sent by the respondent No. 1 to the District Magistrate/Collector, Jhansi (respondent No. 3) under misconception, and a Letter dated 25th April, 2011 has been sent by the respondent No. 1 to the District Magistrate/Collector, Jhansi (respondent No. 3) withdrawing the said Recovery Certificate dated 8.12.2010.

6. In view of the above, it is evident that no cause of action survives to the petitioners as regards the proceedings being taken under the U.P. Public Money (Recovery of Dues) Act, 1972, and no further orders are required to be passed in the present writ petition.

7. It is, however, made clear that it will be open to the petitioners to pursue appropriate remedy in regard to the proceedings under the Securitization Act as and when the respondent No. 1 revives the said proceedings against the petitioners.

8. It is further provided that no collection charges will be recovered from the petitioners in respect of the Recovery Certificate dated 8.12.2010 sent by the respondent No. 1 to the District Magistrate/Collector, Jhansi (respondent No. 3).

9. The Writ Petition stands disposed of accordingly.

Petition Disposed Of.