

(2000) 08 RAJ CK 0054

In the Rajasthan High Court

Case No : Civil Revision Petition No. 1642 of 1999

Nanda Ram

APPELLANT

Vs

Punjab National Bank

RESPONDENT

Date of Decision : 09-08-2000

Acts Referred:

Rajasthan Agriculture Credit Operations (Removal of Difficulties) Act, 1974 — Section 12

Rajasthan Tenancy Act, 1955 — Section 37

Citation : (2000) 4 RLW 290 : (2001) 4 WLC 196 : (2002) 1 WLN 170

Hon'ble Judges : N.P. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.P. Gupta, J.—The matter comes up for consideration of stay petition, however, with the consent of the learned Counsel for the parties, the revision petition itself is heard finally.

2. This revision petition is directed against the order of the learned court below dated 10.11.1999, whereby the learned court below has negated the objection of the petitioner about executability of the decree. The contention of the learned Counsel for the petitioner is that the petitioner had raised many other objections in his application dated 5.11.1999 and the Court below has not deal with any of the other objections.

3. The learned Counsel has read to me the application dated 5.11.1999. One of the objections can raised before me as raised in the application is by virtue of Section 37 of the Rajasthan Tenancy Act, the Civil Court cannot proceed to seize, attach or sale the rights of the tenant in the holding and as such since the Court below is proceeding to sale the agriculture land, the proceedings are without jurisdiction. Suffice it to say that this contention is sufficiently taken care of by the provisions of Section 12 of the Rajasthan Agricultural Credit Operations (Removal of difficulties) Act, 1974, which reads as under:

12. Removal of bar to attachment and sale by process of court:--Nothing in any law shall prevent in any manner bank from causing any land or any interest therein charged or mortgaged to it by an agriculturist to secure any financial assistance, to be attached and sold through a civil court and applying the proceeds of such sales towards all moneys due to it from that agriculturist including the costs and expenses as may be awarded by the Court.

4. Thus on a bare reading of this section it is clear that it expressly confers a right and authority in the civil court to attach and sale any land or any interest therein of an agriculturist in specified circumstances. The circumstances include that such land or interest therein should be charged or mortgaged, by an agriculturist, to any bank, and to secure any financial assistance. If these conditions are fulfilled, the land or interests so charged can be sold through civil court and the proceed to be applied in realisation of the outstandings of the bank. In the present case the decree under execution has been passed in a suit of the bank wherein it was clearly contended that apart from other properties, the land being proceeded against was charged by the agriculturist to secure financial assistance from the bank and it is in accordance with the terms of the decree that the land is being proceeded against. In such circumstances, the proceedings being taken by the learned court below are clearly saved by the said provisions of Section 12 of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 and Section 37 of the Rajasthan Tenancy Act does not have its operation in such circumstances.

5. From the impugned order it does not appear that the petitioner has pressed any of the other objections taken in the application dated 5.11.1999 and admittedly no other revision has been filed by the petitioner to vindicate his other objections in the said application. Consequently. I do not find any force in this revision petition, the same is therefore, dismissed. The learned court below is directed to proceed with the execution expeditiously. The parties to bear their own costs.