

(2015) 03 UK CK 0004

In the Uttarakhand High Court

Case No : Writ Petition No. 2497 of 2013 (M/S)

Ravikant and Others

APPELLANT

Vs

Uttar Pradesh State Financial Corporation

RESPONDENT

Date of Decision : 17-03-2015

Acts Referred:

State Financial Corporations Act, 1951 — Section 32-G

Citation : (2015) 4 BC 380

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Dharmendra Barthwal, for the Appellant; Naresh Pant, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Alok Singh, J—Present petition is filed assailing the citation issued for recovery of Rs. 35,60,706/-, Annexure No. 1 to the writ petition. Undisputed facts of the present case, inter alia, are that loan of Rs. 15,31,000/- was sanctioned in favour of petitioner No. 1 for establishing and running the industry in the name and style of petitioner No. 2; loan agreement was executed between the parties on 23.3.1987, Annexure No. 2 to the writ petition, petitioner failed to repay the outstanding amount, therefore, recovery certificate was issued by the Financial Corporation to the Revenue Authorities to recover the amount as arrears of land revenue; having received the recovery certificate from the Financial Corporation, learned Tehsildar was pleased to issue citation, Annexure No. 1; feeling aggrieved, petitioner has preferred the present writ petition on the main ground that Financial Corporation cannot recover the outstanding amount as arrears of land revenue by issuing the recovery certificate to the Revenue Authorities.

2. The only question arises in the present petition is - As to whether Financial Corporation is competent to recover the outstanding amount of loan as arrears of land revenue?

3. Section 32-G of the State Financial Corporations Act, 1951 reads as under:

"32G. Recovery of amounts due to the Financial Corporation as an arrear of land revenue.--Where any amount is due to the Financial Corporation in respect of any accommodation granted by it to any industrial concern, the Financial Corporation or any person authorized by it in writing in this behalf, may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to it, and if the State Government or such authority, as that Government may specify in this behalf, is satisfied, after following such procedure as may be prescribed, that any amount is so due, it may issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue."

4. Bare perusal of Section 32-G of the Act would demonstrate that Financial Corporation in respect of any assistance granted by it to any industrial concern, the Financial Corporation or any person authorized by it in writing in this behalf, may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to it, and if the State Government or such authority, as that Government may specify in this behalf, is satisfied, after following such procedure as may be prescribed, that any amount is so due, it may issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

5. Undisputedly, in the present case, Financial Corporation has not made any request to the State Government seeking permission to recover the amount as arrears of land revenue nor the State Government has examined the matter nor the State Government has issued any recovery certificate to the Collector to recover the amount as arrears of land revenue. In the present case, Financial Corporation has issued recover}" certificate directly to the Revenue Authorities to recover the amount as arrears of land revenue, which is not permissible under Section 32-G of the Act. It is settled position of law that procedure given in the Act should be followed strictly for recovery of the amount.

6. In view of the above, petition succeeds and is hereby allowed. Impugned recovery proceedings pursuant to Annexure No. 1 to the writ petition are hereby quashed. However, respondent shall be at liberty to proceed against the petitioners in accordance with law. CLMA No. 2518 of 2015 also stands disposed of accordingly.