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(2012) 09 AHC CK 0146

In the Allahabad High Court

Case No : Writ-C No. 47083 of 2012

Renu Tyagi APPELLANT

Vs

State of U.P.Through Secretary and Others RESPONDENT

Date of Decision : 14-09-2012

Acts Referred:

Citation : (2012) 09 AHC CK 0146

Hon'ble Judges : Ashok Bhushan, J and Abhinava Upadhya, J

Final Decision : Disposed Of

Judgement

AbhiNava Upadhya, JJ.—Heard learned Counsel for the petitioner, Sri K.M. Asthana, learned Counsel appearing for Bankrespondents No. 5 and 6 and the learned Standing Counsel appearing for the Staterespondents No. 1 to 4.

2. With the consent of learned Counsel for the parties, the writ petition is being finally disposed of.

3. By means of this petition, the petitioner has prayed for quashing the proceedings initiated by the Bank by issuing notice dated 16.5.2012 under the SARFAESI Act, 2002 (in short the Act) demanding an amount of Rs. 2,52,896.95 plus interest as on 12.4.2012.

4. Learned Counsel for the petitioners submits that petitioner had taken loan of Rs. 4,00,000/ in the year 2007 from the Bank for purchasing a car. On default being committed recovery, proceedings have been initiated under the said Act as arrears of land revenue. The petitioner had made certain deposit before the Tehsil Authority. After deposit of Rs. 45,000/ the Bank has also initiated recovery under the said Act by issuing notice dated 16.5.2012 as mentioned above, which has been filed as Annexure2 to the writ petition.

5. Learned Counsel for the petitioner submits that the petitioner accepts the entire liability and is ready to pay the outstanding amount provided she is given some reasonable time to deposit the amount. He further submits that the

amount already deposited by the petitioner before the revenue authority be directed to be adjusted.

6. Learned Counsel for the respondentsBank submits that the Bank has no objection provided the petitioner deposits the entire outstanding amount within the time allowed by this Court and in the event of petitioner committing default in making deposit as directed by this Court, the respondents be given liberty to take action against the petitioner under the said Act.

7. Considering the facts and circumstances of the present case, ends of justice would be served if the petitioner is given an opportunity to clear the entire outstanding amount.

8. We dispose of the writ petition with the following directions:

1. The petitioner shall deposit the entire outstanding amount in four equal instalments and the first instalment shall be paid on or before 31st October, 2012 and rest of the amount thereafter within every three months.

2. After deposit of first instalment, the Bank shall provide upto date statement of account to the petitioner after adjusting the amount already deposited by the petitioner including the amount already paid before the revenue authority and the subsequent instalment shall be paid accordingly.

3. The petitioner shall deposit the entire amount with respondent No. 5 and no recovery charges shall be realized from the petitioner.

4. In the event of petitioner committing any default in depositing the amount as directed above, the respondents will be at liberty to proceed against the petitioner under the said Act.

5. Subject to payment as directed above, no coercive action shall be taken against the petitioner by the respondents.

With the above observations and directions, the writ petition is disposed of finally.

Recovery Proceeding Entire liability accepted Loanee ready to pay the amount Opportunity given to clear off the entire liability Petition disposed of with directions. (Paras 7 and 8)

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