(2004) 02 AHC CK 0132

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 48474 of 2000

R.S.Tripathi APPELLANT

Vs

Bank of Baroda,Central Office & Ors. RESPONDENT

Date of Decision : 24-02-2004

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2004) 02 AHC CK 0132

Hon'ble Judges : M.Katju, J and R.S.Tripathi, J

Final Decision : Dismissed

Judgement

M. Katju, J.

1. In this petition the name of Sri Kuldeep Saxena has been shown for the petitioner. Sri Pradeep Kumar, learned counsel for the respondent Bank of Baroda states that whenever the case is listed an illness slip is sent by the petitioner. Since the impugned recovery is of more than Rs. 60 lacs (sixty lacs) we are not inclined to adjourn this petition.

2. The order sheet of the case of 7112000 shows that there is a detailed order of the Division Bench of this Court stating that this is the 7th writ petition filed by the petitioner challenging the recovery. In our opinion this is clear abuse of the process of the Court. In the order dated 7112000 it has also been stated that prima facie the allegations of the respondents appear to be correct.

3. The petitioner has prayed for one time settlement, but it is well settled that there is no right to a party to get one time settlement vide M.M. Accessories v. U. P. Financial Corporation, 2002 ALR 261.

4. Granting one time settlement is really rescheduling of the loan and only the Bank can do that. This Court under Article 226 of the Constitution cannot direct for one time settlement. The Court can only interfere when there is violation of law, but no such violation has been pointed out.

5. Learned counsel for the petitioner has referred to the guidelines of the Reserve Bank of India for recovery of non performing assets mentioned in the letter of respondent No. 1 dated 2482000 (Annexure1 to the petition). In our opinion these guidelines are only for the internal guidance of the Banks and the Financial Institutions, but a party who has taken the loan cannot derive any benefit from these guidelines, and these guidelines of the Reserve Bank of India do not confer any right on a party which has taken the loan to get one time settlement. These guidelines are purely executive instructions and not statutory directions. Hence no right can be claimed by anyone on their basis.

6. It is well settled that purely administrative instructions are not enforceable in a Court of Law vide (G.J. Fernandez v. State of Mysore , AIR 1967 SC 1753 (para 12); State of Maharashtra v. Lok Shikshan Sanstha, AIR 1973 SC 588 (para 27); Union of India v. Maiji, AIR 1977 SC 257 (paras 3136); Jt. Chief Controller v. Aminchand, AIR 1966 SC 478 (vide para 6), State of Assam v. Ajit Kumar, AIR 1965 SC 1196 (1200);Satyanarain v. Mallikarjun, AIR 1960 SC 137 (142); Rowther v. S.T.A.T., AIR 1959 SC 896; Nagendra v. Commissioner, AIR 1958 SC 398, etc.

7. For the reasons given above, this petition is dismissed.