
(2012) 08 DEL CK 0221
In the Delhi High Court
Case No : W.P (C) No. 6226 of 2003

Sadhu Singh Dagar

APPELLANT

Vs

The Delhi State Cooperative Bank

RESPONDENT

Date of Decision : 30-08-2012

Acts Referred:

Citation : (2012) 08 DEL CK 0221

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : R.K. Saini and Mr. Vikram Saini, for the Appellant; Anand Yadav, for the Respondent

Final Decision : Dismissed

Judgement

Suresh Kait, J.—Vide the instant petition, the petitioner is seeking direction to be issued to the respondent to release the amount of Rs. 3,91,692.61 ps which was recovered from the retiral funds of the petitioner. Mr. R.K. Saini, Id. Counsel appearing on behalf of the petitioner, has submitted that the aforementioned amount was recovered by the respondent bank arbitrarily and without proper procedure. The respondent bank never initiated process of recovery against the principal borrower, for recovery of the loan amount, in the courts of law and to make it effectively. The principal borrower had given undertaking in the form of affidavit that they were willing to re-pay the loan amount legally repayable against them.

2. The respondents have filed counter affidavit to the instant petition with the details of the loan amount recovered from the petitioner's retiral funds wherein he stood surety and loan has not been satisfied or the loan payments pending against the petitioner are as under:-

i. In regard to the loan taken by Sh. Vir Bhan at Najaf Garh Branch of the Bank, it was reported by the concerned Asstt. Collector that the petitioner was surety in this loan case and an amount of Rs. 82979.40 in total was outstanding. The

petitioner had been summoned so many times for recovery but he never bothered. The concerned Branch Manager also reported that the petitioner was a surety in this loan case and an amount of Rs. 82416.40 Plus cost of Rs. 563/- (as reported by the A.C. - II) totaling to Rs. 82979.40 was finally outstanding in this loan account.

ii. In regard to the loan taken by Shri Ram Narain at Najaf Garh Branch of the bank it was reported by the concerned AC-II that the petitioner was surety in this loan case and an amount of Rs. 5303.21/- was outstanding. The petitioner was summoned so many times of recovery but he never bothered. The concerned Branch Manager has also reported that the petitioner is surety in this loan and an amount of Rs. 4630.21 plus cost of Rs. 673/- (as reported by the AC-II) totaling Rs. 5303.21 was outstanding against this loan account.

iii. In regard to the loan taken by Shri Braham Dutt Sharma at Najaf Garh Branch of the bank it was reported by the concerned Assistant Collector that the petitioner was the surety in this loan case and an amount of Rs. 55,508/- was outstanding. The petitioner was summoned so many times for recovery but he never bothered. The concerned Branch Manager has also reported that the petitioner is surety in this loan and an amount of Rs. 50442/- plus cost of Rs. 5066/- (as reported by the AC-II) totaling to cost of Rs. 55,508/- was finally outstanding against this loan account.

iv. An amount of Rs. 125902/- loan for tubewell / leveling of land was taken from L.D.B Section of the Bank by the petitioner in the joint name with his brother Shri Kehar Singh. The same has been reported by the Manager. Accordingly, an amount of Rs. 125902/- has been deducted from final payment of retrial benefits of the petitioner as per bank rules.

v. An amount of Rs. 1,22,000/- has been taken by the petitioner as loan from the bank staff T/c. Society and was due to the Society. Accordingly, a sum of Rs. 1,22,000/- has been deducted from final payment / retrial benefits of the petitioner as this was his liability to be paid to bank employees Coop. T/c Society.

vi. An amount of Rs. 5,000/- has been deducted towards the outstanding amount of festival advance taken by the petitioner.

The break up of the figures is given in the table below:

For surety of Over Draft loan advanced to Sh. Vir Bhan

Rs. 82,979.40

For surety of Over Draft loan advanced to Sh. Ram Narain

Rs. 5,303.21

For surety of composite loan advanced to Shri

Rs. 55,508.00

Braham Dutt Sharma

For loan from LDB Section for tubewell and leveling of land by the petitioner jointly with his brother Shri Kehar Singh.

Rs. 1,25, 902.00

Amount of loan borrowed by petitioner from Bank's Staff T/c. Society.

Rs. 1,22,000.00

Festival advance availed by petitioner

Rs. 5,000.00

TOTAL

Rs. 3,96,692.61

Thus, out of the total amount of Rs. 4,88,459/- of the final payment of leave encashment and gratuity at the time of retirement Rs. 3,96,692.61 has been deducted towards liabilities of the petitioner to be paid to the bank.

3. Ld. Counsel for the respondent has drawn the attention of this Court to Annexure R-1 at page 44 (coly), containing various Office Notes issued by Assistant Collector regarding recoveries against the petitioner, which are reproduced below:-

OFFICE NOTE 10.03.2003

A recovery case of Sh. Veer Bhan Dagar, S/o, Sh.Chet Ram, R/o V.P.O. Ujwa, Delhi is pending in recovery cell since long. Despite the repeated summons & warrant of arrest, Sh. Veer Bhan is not making any payments. Sh. Sadhu Singh Dagar, Manager of our Bank, is the surety in this case. He has also been summoned so many times for recovery, but he never bothered. Now the position of the above said loan as on 31.12.2002 is as under:

Principle = Rs. 29,236.00

Interest = Rs. 50,425.00

Cost = Rs. 563.00

Total = Rs. 80,224.00

Submitted for necessary action for recovery from Sh. Sadhu Singh Dagar, Manager.

A.G.M. Estt.

J.S. Mann,

Asst. Collector.

OFFICE NOTE 10.03.2003

A recovery case of Sh. Ram Narain, S/o, Sh. Shri Chand, R/o V.P.O. Ujwa, Delhi is pending in recovery cell since long. Despite the repeated summons & warrant of arrest, Sh. Ram Narain is not making any payments. Sh. Sadhu Singh Dagar, Manager of our Bank, is the surety in this case. He has also been summoned so many times for recovery, but he never bothered. Now the position of the above said loan as on 31.12.2002 is as under:

Principle = Rs. 1,860.00

Interest = Rs. 2,604.00

Cost = Rs. 673.00

Total = Rs. 5,137.00

Submitted for necessary action for recovery from Sh. Sadhu Singh Dagar, Manager.

A.G.M. Estt.

J.S. Mann,

Asst. Collector.

OFFICE NOTE 10.03.2003

A recovery case of Sh. Braham Dutt Sharma, S/o, Sh. Jai Narain, R/o Vill. Samaspur Khalsa, P.O. Ujwa, Delhi is pending in recovery cell since long. Despite the repeated summons & warrant of arrest, Sh. Braham Dutt is not making any payments. Sh. Sadhu Singh Dagar, Manager of our Bank, is the surety in this case. He has also been summoned so many times for recovery, but he never bothered. Now the position of the above said loan as on 31.12.2002 is as under:

Principle = Rs. 42,460.00

Interest = Rs. 10,189.00

Cost = Rs. 5,066.00

Total = Rs. 57,715.00

Submitted for necessary action for recovery from Sh. Sadhu Singh Dagar, Manager.

A.G.M. Estt.

J.S. Mann,

Asst. Collector.

OFFICE NOTE

A recovery case of Sh. Veer Bhan Dagar, S/o, Sh. Chet Ram, R/o V.P.O. Ujwa, Delhi is pending in recovery cell since long. Despite the repeated summons

& warrant of arrest, Sh. Veer Bhan is not making any payments. Sh. Sadhu Singh Dagar, Manager of our Bank, is the surety in this case. He has also been summoned so many times for recovery, but he never bothered. Now the position of the above said loan as on 30.04.2003 is as under:

Principle = Rs. 29,236.00

Interest = Rs. 52,258.00@19%

Cost = Rs. 563.00

Total = Rs. 82,057.00

Submitted for necessary action for recovery from Sh. Sadhu Singh Dagar, Manager.

A.G.M. Estt.

J.S. Mann,

Asst. Collector./29.04.2003

LDB 2728

16-4-03

THE DELHI STATE COOPERATIVE BANK

LTD.

L.D.B Section

Certified that there is a Tubewell loan amount of Rs. 38,293, leveling loan amount of Rs. 1,09,500/- and interest of Rs. 11,371/- as on 31-3-2003 is still standing due with our section. This amount is standing due in the joint account of Shri Sadhu Singh Dagar, Manager (D-041) and Shri Keher Singh S/o, Mangal Singh, R/o Samas Pur Khalsa.

Manager 12/04/2003

LDB Section

The Delhi State

CO-OP. Bank Emp's Co-op. Thrift & Credit

Society Ltd.

REGISTRATION NO. 32 (U4) ON 12-06-62

31, NETAJI SUBHASH MARG,

DARYA GANJ,

NEW DELHI - 110002

Ref. NO.....

Dated: 20.04.2003

The Manager (Estt.)

Head Office

Sub:- NO DUES CERTIFICATE

A sum of Rs. 1,22,000/- is outstanding in the name of Sh. Sadhu Singh Dagar, Manager as loan who is going to be retired from the Bank Services on 30-04-2003.

Vice-President

OFFICE NOTE

A recovery case of Sh. Ram Narain, S/o, Sh. Shri Chand, R/o V.P.O. Ujwa, Delhi is pending in recovery cell since long. Despite the repeated summons & warrant of arrest, Sh. Ram Narain is not making any payments. Sh. Sadhu Singh Dagar, Manager of our Bank, is the surety in this case. He has also been summoned so many times for recovery, but he never bothered. Now the position of the above said loan as on 30.04.2003 is as under:

Principle = Rs. 1,860.00

Interest = Rs. 2,715.00 @ 18%

Cost = Rs. 673.00

Total = Rs. 5,240.00

Submitted for necessary action for recovery from Sh. Sadhu Singh Dagar, Manager.

A.G.M. Estt.

J.S. Mann,

Asst. Collector./29.04.2003

OFFICE NOTE

A recovery case of Sh. Braham Dutt Sharma, S/o, Sh. Jai Narain, R/o Vill. Samaspur Khalsa, P.O. Ujwa, Delhi is pending in recovery cell since long. Despite the repeated summons & warrant of arrest, Sh. Braham Dutt is not making any payments. Sh. Sadhu Singh Dagar, Manager of our Bank, is the surety in this case. He has also been summoned so many times for recovery, but he never bothered. Now the position of the above said loan as on 30.04.2003 is as under:

Principle = Rs. 42,460.00

Interest = Rs. 6,783.00 @ 17%

Cost = Rs. 5,066.00

Total = Rs. 54,309.00

Submitted for necessary action for recovery from Sh. Sadhu Singh Dagar, Manager.

A.G.M. Estt.

J.S. Mann,

Asst. Collector./29.04.2003

4. After going through the recovery notes prepared by Assistant Collector and loan amount due to the petitioner, the respondent bank has rightly recovered the amount from his retiral benefits. The employer has to see before the retirement of the employee, if there is any dues against him. If so, then deduct the said amount and balance pay to the employee.

5. In the present case, the respondent Bank received recovery notes from Assistant Collector wherein the petitioner stood surety. Also received notes from the concerned Department of Bank by intimating that the petitioner was retiring and loan is outstanding against him. Accordingly, the respondent Bank, calculated the total amount and recovered from his retiral benefit.

6. In view of the facts and circumstances of this case, I find no discrepancy in the orders passed by the respondent Bank. Therefore, I am not inclined to interfere therein. Consequently, instant petition is dismissed with no order as to costs.