
(2010) 05 AHC CK 0394
In the Allahabad High Court
Case No : C.M.W.P. No. 24595 of 2010

Shakuntala Devi and Another	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 19-05-2010

Acts Referred:

Citation : (2011) 1 AWC 220 : (2011) 1 BC 206

Hon'ble Judges : Subhash Chandra Nigam, J; Satya Poot Mehrotra, J

Bench : Division Bench

Judgement

1. The Petitioner had taken loan for housing purposes from the Respondent No. 3 (Uttar Pradesh Sahkari Avas Sangh Limited). It appears that the Petitioners committed default in the payment of instalments, and consequently, recovery proceedings have been initiated against the Petitioners.
2. Sale-proclamation (Annexure-1 to the writ petition) was issued on 18th March, 2010 for auction of the house mortgaged with the Respondent No. 3 as security for the said loan. The date for auction was fixed as 21st April, 2010.
3. Mr. Rohit Agrawal has put in appearance on behalf of the Respondent No. 3.
4. Mr. Rohit Agrawal has stated that no auction could take place on 21st April, 2010 pursuant to the aforesaid sale-proclamation.
5. We have heard Mr. D.D. Kushwaha, learned Counsel for the Petitioners and Mr. Rohit Agrawal, learned Counsel for the Respondent No. 3.
6. Mr. D.D. Kushwaha, learned Counsel for the Petitioners states that the Petitioners are ready to deposit the entire dues of the Respondent No. 3 with up-to-date interest if time to deposit the same in instalments is granted.
7. Mr. Rohit Agrawal, learned Counsel for the Respondent No. 3 has no objection to the aforesaid proposal.
8. In the circumstances, the present writ petition is disposed of finally with the

following directions:

(i) The Petitioner may deposit the entire amount sought to be recovered directly with the contesting Respondent No. 3 (Uttar Pradesh Sahkari Avas Sangh Limited) in six equal quarterly instalments with up-to-date interest.

(ii) The first instalment may be deposited by 19th August, 2010 the second by 19th November, 2010, the third by 19th February, 2011, the fourth by 19th May, 2011, the fifth by 19th August, 2011, and the last/sixth by 19th November, 2011. Any amount already deposited will be adjusted.

(iii) This order will not affect any auction or sale which may already have taken place.

(iv) If the Petitioners deposit the instalments with up-to-date interest, as fixed by this Court, in time the recovery shall be kept in abeyance but if the Petitioners default in paying any of the instalment, this order shall stand vacated and the Respondents will be at liberty to proceed against the Petitioners in accordance with law.

(v) On deposit of all the instalments with up-to-date interest, as fixed by this Court, in time, the recovery proceedings against the Petitioners will be dropped, and the recovery charges will not be recovered from the Petitioners.

(vi) This order will not be applicable if the Petitioners have filed any earlier writ petition challenging the recovery of this loan.