

(2011) 01 UK CK 0034

In the Uttarakhand High Court

Case No : Writ Petition No. 108 of 2010 (M/S)

Sri Deepak Verma and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 03-01-2011

Acts Referred:

Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 — Section 3

Citation : (2011) 2 RCR(Rent) 487

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.S. Verma, J.—Since the controversy involved in all these writ petitions is similar, therefore, they are being decided by this common judgment.

2. By means of all these writ petitions the Petitioners have sought a writ in the nature of certiorari quashing the impugned citations dated 11-12-2009 issued by Respondent No. 4/Tehsildar Dehradun against the Petitioners.

3. According to the Petitioners the Respondent No. 5, Punjab National Bank, Branch Deoprayag, District Tehri Garhwal granted cash credit facility to the Petitioners. The loans advanced to the Petitioners was purely a private loan and the same is not under any Government Sponsored Scheme, as such the same cannot be recovered as arrears of land revenue and the impugned recovery citations issued by Respondent No. 4 is illegal and without any jurisdiction and deserve to be set aside.

4. No counter affidavit has been filed on behalf of Respondent No. 5/ Punjab National Bank. However, Respondent No. 4/Tehsildar Dehradun filed counter affidavit and alleged that the Petitioners reside within his jurisdiction and he issued recovery citations on the direction of District Magistrate Dehradun for the recovery of loan amounts of Punjab National Bank and the writ petitions are liable to be dismissed.

5. Learned Counsel appearing on behalf of the Bank has submitted that the Petitioners failed to repay the loan amounts in spite of efforts made by the Bank, hence the process of recovery of loan amounts as arrears of land revenue was adopted and the Tehsildar has jurisdiction to recover the loan amounts through the impugned citations.

6. I do not find any substance in the submission of learned Counsel for the Bank. According to the Petitioners the loan sanctioned by the Bank to them was purely a private loan and it was not sanctioned under some State Sponsored Scheme, hence the same cannot be recovered through impugned citations as arrear of land revenue. The Respondent Bank has not agitated this fact that the loan sanctioned to the Petitioners was a private loan and it was not sanctioned under some State Sponsored Scheme. Reliance has been placed by the learned Counsel for the Petitioners on a judgment rendered by the Hon'ble Apex Court in the case of Iqbal Naseer Usmani v. Central Bank of India and Ors., reported in 2006 (1) AWC 962 (SC). The Hon'ble Apex Court in the above cited judgment has held that a loan not advanced under the State Sponsored Scheme cannot be recovered as arrears of land revenue.

7. In view of above dictum of Hon'ble Apex Court the loan advanced to each of the Petitioners is not recoverable as arrears of land revenue as per provision of Section 3 of U.P. Public Moneys (Recovery of Dues) Act 1972, as it was not sanctioned under some State Sponsored Scheme. Only those loans can be recovered as arrears of land revenue, which are sanctioned under State Sponsored Scheme or otherwise the Act provides for recovery as arrears of land revenue.

In view of above specific provision of law, the writ petitions are liable to be allowed and the impugned citations issued against each of the Petitioners are liable to be quashed.

8. All the writ petitions are allowed. The impugned citations dated 11-12-2009 issued by Tehsildar Dehradun, annexed with each of the writ petitions are hereby quashed.

9. However, the Respondent No. 5, Punjab National Bank shall be at liberty to recover the loan amounts under some other mode of recovery.

Let a copy of this order be placed in each writ petition.