(2014) 06 KL CK 0145

In the High Court Of Kerala

Case No : W.P.(C). No. 510 of 2014 (K)

Vidhyadharan APPELLANT

Vs

District Collector, Ernakulam RESPONDENT

Date of Decision : 13-06-2014

Acts Referred:

Kerala Revenue Recovery Act, 1968 — Section 71

Citation : (2014) 06 KL CK 0145

Hon'ble Judges : K. Vinod Chandran, J

Bench : Single Bench

Advocate : N.K. Mohanlal, Advocate for the Appellant; A.S.P. Kurup, Adv., Standing Counsil for Union Bank of India/for R4 and Smt. Shoba Annamma Eapen, Government Pleader for R1-3, Advocate for the Respondent

Final Decision : Dismissed

Judgement

K. Vinod Chandran, J.—The petitioner admits that he purchased a personal computer, after availing a loan from the fourth respondent herein. The loan was availed in the year 2006 and according to the petitioner, the same was to be repaid in 36 equal monthly instalments. Admittedly, after remitting five instalments, no further repayments were made. The revenue recovery proceedings were initiated by the fourth respondent as per Ext.P1 and P2. The petitioner urges two grounds to assail the same.

2. First is the plea of limitation, since the revenue recovery proceedings is said to be beyond the three year period. The other ground is that, the loan is not covered under the notification issued u/s 71 of the Kerala Revenue Recovery Act. SRO No. 1465/87 specifically deals with the development schemes, as defined under the notification and the loan was not availed under any such development scheme, is the argument.

3. With respect to the contention of limitation, the respondent Bank submits that the loan was not repayable in 36 monthly instalments but however was a

secured overdraft facility as is evident from the application and the sanction produced as Ext R4(A). The petitioner then contends that, the original loan agreement would indicate that the loan was to be paid in 36 instalments and despite seeking a direction to produce the same, the Bank has not produced it, which definitely is a ground for arriving at an adverse inference, against the Bank. The learned counsel for the respondent Bank however submits that, Ext.R4(A) is an application submitted by the petitioner which has been sanctioned by the Branch Manager and there would be no further application or agreement on that count.

4. Looking at Ext.R4(A) which is an application by the petitioner; he is stated to have seven years experience in the Information Technology field and running a business in the name and style of M/s Smart Solution. The loan obviously was sought for, as a working capital loan and Ext.R4(A) is signed by the petitioner with the seal of the business establishment run by him. On the last page of Ext.R4(A) is the sanction, which indicates a consideration of the various factors influencing the sanction. The loan evidently is sanctioned under the self-employment scheme. The loan granted for self-employment scheme is one coming under the priority sector and it comes under the definition of the development scheme as defined in the notification. In such circumstance, the account being an overdraft account, there could be no ground of limitation raised nor can revenue recovery proceedings be assailed on the ground of the loan having not been availed under a development scheme.

Writ petition is dismissed. No costs.

