

Swaran Vs. Prescribed Authority

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Court : Punjab and Haryana

Decided On : Mar-01-1994

Reported in : (1994)107PLR471

Judge : G.R. Majithia and; V.K. Jhanji, JJ.

Acts : Haryana Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1973 - Sections 8A(1)

Appeal No. : C.W.P. No. 2796 of 1994

Appellant : Swaran

Respondent : Prescribed Authority

Advocate for Pet/Ap. : Prem Chand Chaudhary, Adv.

Disposition : Petition dismissed

Judgement :

G.R. Majithia and V.K. Jhanji, JJ.

1. The petitioners have challenged order dated January 25, 1994 passed on a petition filed by the Punjab National Bank, Bilaspur Branch, Tehsil Jagadhri, District Yamunanagar Under Section 8-A(1) of the Haryana Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1973 (for short, the Act) in

this petition under Articles 226/227 of the Constitution of India.

2. Bakhtawar Singh, resident of village Sandhaya, Tehsil Jagadhri, District Yamunanagar, husband of petitioner No. 1 and father of petitioner No. 2, took a loan of Rs. 24,000/- for a tube-well from the Punjab National Bank, Bilaspur Branch on April 11, 1987. He executed mortgage deed mortgaging his agricultural land for re-payment of the loan and interest thereon. He did not pay the loan amount within the scheduled period in regular instalments and as per the account statement, he had deposited only Rs. 5,000/- on August 29, 1990 with the Bank. The remaining instalments remained unpaid. A sum of Rs. 43,908.53 is outstanding against the petitioners' predecessor-in-interest, which includes interest upto March 31, 1993. The Punjab National Bank initiated proceedings Under Section 8-A(1) of the Act against the petitioners. The petitioners were given notice of the application and were afforded full opportunity to lead their defence and after recording the evidence, the Prescribed Authority came to the following conclusion:-

' I have carefully perused the case file and have also heard arguments of counsel of both the parties carefully. The loan amount was advanced to father/husband of the respondents in the month of April, 1987 and he had entered into an agreement with the Bank regarding repayment of loan and also mortgaged his land with the Bank. After the death of Shri Bakhtawar Singh, the respondents are his legal heirs and are bound to return the amount of loan. The respondents have not brought any such fact on the record from which it can be inferred as to which legal heirs of deceased Shri Bakhtawar Singh except the respondents have been left and not impleaded as parties in this case. Hence, this application is, therefore, maintainable. The loan amount was advanced in the year 1987 and since then only Rs. 5000/- has been returned by the respondents to the applicant Bank. The respondents have not returned the fixed instalments as per schedule regularly to the applicant Bank. Hence, as per terms and conditions of mortgage deed, if the respondents do not return the loan amount along with interest to the applicant Bank in fixed instalments as per schedule regularly, the applicant Bank has the right to recover the entire amount of loan alongwith interest- Hence considering all the aforesaid facts, the suit of the applicant Bank is decreed against the

respondents and it is ordered that the loan amount along with interest, which will be upto the date of payment in accordance with law, be recovered by auctioning the land of the respondents mortgaged with the Bank.'

3. The learned counsel for the petitioners did not dispute the correctness of the finding arrived at by the Prescribed Authority. He only says that before taking action Under Section 8-A(1) of the Act, the Bank did not issue any notice to the petitioners. This plea was not raised by the petitioners before the Prescribed Authority. Moreover, issuance of the notice is immaterial as on receipt of the application Under Section 8-A(1) of the Act, the Prescribed Authority issued notice to the petitioners and after giving them full opportunity allowed the application.

4. For the reasons stated above, we find no merit in the writ Petition. The same is dismissed.

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