

Raj Kumar. Vs. State of U.P. and ors

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Court : Allahabad

Decided On : Aug-02-2010

Judge : V.K. Shukla, J.

Acts : U.P.Z.A; L.R. Act.

Appeal No. : WRIT - C No. - 44693 of 2010

Appellant : Raj Kumar

Respondent : State of U.P. and ors.

Advocate for Def. : Nipandra Mishra, Adv.

Advocate for Pet/Ap. : R.P.Srivastava; Vishwanath Pandey, Adv.

Judgement :

Heard learned counsel for the petitioner and Sri. Nripendra Mishra, Advocate for respondent-Bank.

It has been contended on behalf of the petitioner that the petitioner is not claiming any benefit under the Debt Waiver Relief Scheme, 2008, and whatever amount is sought to be recovered, qua the same the petitioner is ready to the same along with interest provided instalment facility is extended. Learned counsel for the Bank states that the anxiety of the Bank is that the amount should be recovered back.

Admittedly petitioner took loan from the respondent- Bank concern, out of which petitioner has not paid substantial amount. Petitioner submits that he is ready to deposit whole of the amount in easy installment.

At this stage without challenging correctness of amount sought to be recovered a prayer has been made that if amount sought to be recovered is permitted to be deposited in easy instalments deposit of entire amount can be made. Accordingly this petition is disposed of with the following directions:

(i) Petitioner may deposit the entire amount sought to be recovered directly in concerned Bank/Samiti in six equal instalments. In calculating the arrears the amount (if any) already paid will be adjusted.

(ii) The first instalment may be deposited within two months from today, and rest of instalments be deposited at the interval of two months. These deposits may be made before the Branch of the Bank from where the loan was taken. In case instalments are deposited in the Bank then half of the recovery charges only be recovered from the petitioner.

(iii) During period the recovery proceedings will be kept in abeyance. In case petitioner defaults in depositing any of the instalments within the above stipulated time it will be open to the respondents to start recovery proceedings again by taking coercive process at once to which the petitioner undertakes not to challenge.

(iv) Petitioner may file an application for supply of statement of account along with the duly stamped self addressed envelope. In case any such application is filed, the concerned branch of the Bank will give the same to the petitioner after deposit of first instalment within fifteen days.

(v) This order will not affect any auction if it has already taken place. In that event the petitioner may take appropriate legal proceedings to set aside the auction under U.P.Z.A & L.R. Act and Rules 1952 or file a suit in accordance with law.

(vi) It is clarified that this order will be operative and will not come in way of recovers process in any manner, if any; other writ petition has been filed before

this Court against the recovery proceeding for the loan amount.

(vii) Property (agricultural land/tractor) belonging to the petitioner, if attached in connection with recovery proceedings, will be released by the concerned Tarsal authority (unless it has been auctioned) after deposit of first instalment and further moment first instalment is paid the applicant shall also be released.

(viii) If any fact given from the side of the petitioner is found to be incorrect by bank authorities. It will be open for them to move an application for modification/recall of the order.

With the aforesaid writ petition stands disposed of.

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