

Satish Kumar Singh. Vs. State of U.P., and Others

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Court : Allahabad

Decided On : Mar-02-2010

Judge : Sheo Kumar Singh; Rajesh Chandra, JJ.

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

Appeal No. : WRIT - C No. - 44925 of 2010

Appellant : Satish Kumar Singh.

Respondent : State of U.P., and Others.

Advocate for Def. : C.S.C.,P.N.Tripathi, Advs.

Advocate for Pet/Ap. : Pradeep Kumar, Adv.

Judgement :

1. Heard learned counsel for the petitioner, learned counsel who appears for the Bank and learned Standing Counsel.
2. Challenge in this petition is recovery proceeding by which a particular amount is sought to be recovered from the petitioner. Counsel for the petitioner has made statement at the bar that this is the first writ petition against the recovery proceeding and this fact has also been stated in the writ petition.
3. Submission is that if reasonable time is allowed to pay the amount sought to be recovered, petitioner may be able to pay the same and irreparable injury on

account of arrest and auction of property may be avoided.

4. To the aforesaid, learned counsel appearing for Bank submits that intention of the respondent bank has been never to cause any irreparable injury to the loanee rather the loan amount was advanced with the purpose to improve the petitioner's future prospects and thus if for justifiable reason the amount in terms of the agreement has not been paid and now petitioner has bonafide intention to pay the amount within a reasonable time then if that liberty is given, it will serve the interest of both sides i.e. petitioner may be saved from the riggers of coercive process i.e. arrest, auction of the properties and at the same time respondent bank will get its full amount with interest. Thus for grant of reasonable time, if that is to advance justice, respondents may not have any objection.

5. In view of aforesaid, this Court feels in the ends of justice that amount sought to be recovered be permitted to be deposited. Accordingly, this petition is disposed of with the following directions :

i) Petitioner is to deposit an amount of Rs. 1 lakh directly in the concerned bank within a period of one month from today to show bonafide on his part.

ii) If petitioner deposits the above amount within the time so allowed then he is permitted to deposit the remaining amount directly in concerned Bank in four equal quarterly instalments. In calculating the arrears the amount (if any) already paid will be adjusted.

iii) The first instalment may be deposited by 31st October, 2010, second instalment by 31st January, 2011, third by 30th April, 2011 and fourth by 31st July, 2011. 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 50% of the recovery charges will be recovered.

iv) During period of deposit 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.

v) Petitioner may file an application for supply of statement of account along with 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.

vi) 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.

vii) It is clarified that this order will not be operative and will not come in way of recovery process in any manner, if any other writ petition has been filed before this Court against the recovery proceeding for the loan amount.

viii) If any fact given from the side of the petitioner is found to be incorrect by the 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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