

12.1.2006 Present: Mr. D.D. Sood, Senior Advocate with Mr. Sunil Awasthi, Advocate, for the petitioner.

Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Dy. Advocate General, for respondents No. 1 to 3.

Mr. G.S. Rathore, Advocate, for respondent No.4.

Mr. Raman Sethi, Advocate, for respondent No.5.

This writ petition is directed against the recovery notice issued by the Tehsildar (Recovery), Directorate of Cooperation, Kasumpti, Shimla, whereby recovery of Rs.3,31,498/- was sought to be made from the petitioner and he was asked to appear on 10th November, 2004 before the Tehsildar to deposit the amount, failing which proceedings were to be taken to recover the amount as arrears of land revenue.

Petitioner in the writ petition alleged that he has made certain payments, but adjustment of the same has not been made by respondent No.5 in its account. Alongwith the writ petition, he has attached certain receipts of the Jogindra Central Co-op Bank Limited in order to show that some amount has been deposited by him on the asking of respondent No.4.

Upon notice of the writ petition, respondent No.5 has denied the receipt of payments, which the petitioner has alleged to have deposited in the account of Jogindra Central Co-op Bank Limited.

Since the disputed questions of fact arise in regard to the liability of the petitioner towards the loan

amount, this Court in exercise of jurisdiction under Article 226 of the Constitution of India will not go into such questions. Therefore, the writ petition is dismissed. However, we give liberty to the petitioner to satisfy respondents No. 4 and 5 in regard to the payments alleged to have been made by him in discharge of the loan and we have no manner of doubt that in case the petitioner is able to satisfy respondents No. 4 and 5, then necessary adjustment in the account shall be made.

Copy of order Dasti.

(V. K. Jhanji)
Judge

January 12, 2006
(ss)

(Surjit Singh)
Judge

