IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 700 of 2005 (M/B)

Vashista Dev S/o Mithai Lal,
R/o Ward No. 8, Tanakpur Road,
Khatima, District Udham Singh Nagar. ……… Petitioner

Versus

1. District Magistrate,
   Udham Singh Nagar.
2. Tehsildar, Khatima,
   District Udham Singh Nagar.
3. Nainital-Almora Kshetriya Gramin Bank,
   through its Branch Manager, Chakarpur,
   Udham Singh Nagar. ……….. Respondents

Mr. V.D. Bisen, Advocate for the petitioner.
Mr. N.C. Gupta, Standing Counsel for respondents Nos. 1 & 2.
Mr. C.K. Sharma, Advocate for respondent No. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. V.D. Bisen, Advocate for the petitioner.

Mr. N.C. Gupta, Standing Counsel for respondents Nos. 1 & 2.

Mr. C.K. Sharma, Advocate for respondent No. 3.

They are heard.

2. petitioner Vashista Dev has filed this writ petition for the following reliefs:

> "(i) To issue writ, order or directions in the nature of certiorari quashing the impugned recovery citation dated 29.6.2005 (Annexure No. 1 to this Writ Petition).
>
> (ii) To issue writ, order or directions in the nature of mandamus commanding the Respondent not to take coercive measures with the Petitioner and recover the amount of loan in appropriate easy installment.
>
> (iii) Issue any such further order or direction which this Hon'ble court may deem fit and proper.
>
> (iv) Award cost of the petition in favour of the Petitioner."

3. The petitioner, in substance, is seeking the facility of instalments in the repayment of loan amount to the Bank.

4. That the petitioner took loan of Rs. 1,80,000/- (Rupees One Lakh and Eighty Thousand only) from respondent No. 3 Nainital-Almora Kshetriya Gramin Bank, Branch Chakarpur, District Udham Singh Nagar in the year 2002, is not in dispute. It is also not in dispute that the petitioner committed default in the repayment of loan leading to the issuance of recovery citation (Annexure No. 1) against him.

5. The petitioner and third respondent Nainital-Almora Kshetriya Gramin Bank are bound by the terms of the loan agreement between them.

6. In our opinion, it would be appropriate for the petitioner to make a fresh representation to third respondent Nainital-Almora Kshetriya Gramin Bank for the facility of easy instalments. For showing the petitioner's bonafides in the matter, the representation should be accompanied with a bank draft of Rs. 25,000/- (Rupees Twenty Five Thousand only). If such a representation, along with the bank draft, is submitted to the third respondent, the Bank may consider the same sympathetically in view of the hardship pointed out by the petitioner.

7. With the above observation, the writ petition stands disposed of.

8. Consequently, the interim order dated 06.07.2005 stands vacated automatically.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C. J.)**
30.06.2006 30.06.2006

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