

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Writ Petition (M/S) No. 1717 of 2010.

1. Amarjeet Singh S/O Kuldeep Singh,
2. Malook Singh S/O Kuldeep Singh, Both R/O Sharda Colony,
Dibdiba, Tehsil Bilaspur, District Rampur, U.P.

... Petitioners.

Vs.

1. District Magistrate Rampur (U.P.),
2. Tehsildar Bilaspur, District Rampur U.P.
3. Union Bank of India Branch Rudrapur through its Branch
Manager.

... Respondents.

Mr. Harshpal Sekhon, Advocate, learned counsel for the petitioner.

Mrs. Bina Pande, Standing Counsel U.P. Govt, learned counsel for the respondent no. 1 and 2.

Mr. Lalit Belwal, Advocate, learned counsel for the respondent no. 3.

Date September 30, 2010.

Hon'ble B.S.Verma, J.

(Stay Application No. 8422 of 2010)

Heard learned counsel for the parties and perused the record.

By means of this writ petition, the petitioners have sought a writ in the nature of certiorari quashing the impugned recovery citation dated 20-8-2010 issued by respondent no. 2 (Annexure-3 to the writ petition). The petitioners have further prayed for a writ of mandamus directing the respondents not to adopt any coercive measures against the petitioners in pursuance of the impugned recovery citation and to direct the respondents to permit the petitioners to repay the loan amount in instalments.

According to the petitioners, they took a loan of Rs. 8,00,000/- (eight lakhs) from the respondent-Bank to run a business in July 2008. The petitioners started the business but they suffered financial loss in the business and could not deposit the instalments regularly with the respondent-Bank. The loan was to be repaid within a period of five years. The petitioners had deposited a total sum of Rs. 1,60,000/- against the loan amount with the bank concerned. When the instalments were not paid by the petitioners, the bank resorted to coercive measures and ultimately, the impugned recovery citation was issued against the petitioners.

In the course of arguments, learned counsel for the petitioners submitted that the petitioners are ready and willing to repay the entire outstanding amount under the recovery citation along with recovery charges

in easy instalments. On the other hand, learned counsel for the respondent-Bank Mr. Lalit Belwal has submitted that the respondent Bank would have no objection if the entire outstanding amount along with recovery charges is paid by the petitioners within a reasonable period of about 1,1/2 year, the first instalment to be paid within a period of six weeks.

In the peculiar facts and circumstances of the case, it would be in the fitness of things as well as in the interest of justice to direct the petitioners to repay the entire outstanding amount under the impugned recovery citation (Annexure No. 3 to the petition) along with recovery charges before the recovery officer in eight equal quarterly instalments. This direction shall not be taken as a precedent in other cases.

Accordingly, the petitioners are directed to pay the entire outstanding amount under the recovery citation (Annexure-3 to the petition) in eight equal quarterly instalments before the recovery officer-respondent no.2-Tehsildar Bilaspur, District Rampur (U.P.) along with recovery charges. The first quarterly instalment shall be payable by 15th day of November 2010 and the subsequent instalments shall fall due by the 15th day of the month after every three months thereafter. It is made clear that in case the petitioners commit a default in payment of any of the instalments, as directed above, the respondents would be at liberty to recover the entire outstanding amount from the petitioners in lump-sum. Accordingly, the impugned recovery citation dated 20-8-2010 issued by the respondent no.2 (Annexure-3 to the petition) shall not be given effect to by the respondents.

With the above direction, the writ petition is disposed of finally.

(B.S.Verma,J.)

RCP