

(2011) 07 AHC CK 0287

Allahabad High Court

Case No: Writ C No. 39026 of 2011

Majid Hasan

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: July 19, 2011

Hon'ble Judges: Sudhir Agarwal, J

Bench: Single Bench

Judgement

Sudhir Agarwal, J.

Heard Sri D.K. Kesharwani, learned Counsel for the Petitioners in all the writ petitions, learned Standing Counsel for State Respondents and Sri K.M. Asthana, Advocate for Respondent Bank in Writ Petition No. 39026 of 2011, Sri Triveni Sharma, Advocate for Respondent Bank in Writ Petition No. 39027 of 2011 and Sri Rakesh Kumar Bisht, Advocate holding brief on behalf of Sri Siddharth, learned Counsel for Respondent Bank in Writ Petition No. 39029 of 2011.

2. All these writ petitions relate to one and the same loan amount and, therefore, as agreed by learned counsel for the parties the same are being decided by this common judgment.

3. learned Counsels for the Bank state that amount of Tractor loan outstanding against all these Petitioners collectively is Rs. 3,92,048/- and same amount towards interest etc. However, the Bank has issued three different recovery citations in respect to all these three Petitioners separately for the same amount though it is admitted by learned Counsel appearing for the Bank that it is one amount, i.e., Rs. 3,92,048/which is due against a single loan amount advanced for purchase of Tractor and, therefore, in fact the Bank ought to have issued only one recovery citation but it has wrongly issued three citations in the name of three different persons for the same amount.

4. In the circumstances, the two recovery certificates are obviously erroneous and illegal. learned Counsel for the Petitioners however submits that he is ready to pay

the aforesaid amount in case the Bank may consider their request for clearing the outstanding dues in easy installments.

5. Since the Bank itself has illegally issued three recovery citations for single loan for recovering same amount from three persons, it has committed illegality in issuing three recovery citations and it is difficult for this Court to identify as to which recovery citation should remain intact and rest must go. In the facts and circumstances of the case, I find that all the three recovery citations deserve to be quashed and the matter needs to be examined by Bank afresh.

6. In the circumstances, all these three writ petitions are allowed with following directions:

(A) The Petitioners shall deposit a sum of Rs. 1,00,000/within one month from today to Respondent Bank. 3

(B) On receiving said amount the Bank shall inform Respondents no. 1 and 2 about the said deposit whereupon recovery certificates shall be returned by Respondents no. 1 and 2 to Respondent Bank for further action.

(C) The Petitioners shall also make an appropriate representation before the Bank and in case such a representation is received by Bank along with receipt of Rs. 1,00,000/-, as directed above, the same would be considered in accordance with law.

(D) The three citations impugned in all these writ petitions are hereby quashed.