

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

ON THE 20TH DAY OF JULY, 2021

BEFORE:

HON'BLE SHRI JUSTICE MANOJ KUMAR TIWARI

Writ Petition (M/S) No. 1378 of 2021

BETWEEN:

Bhupal Ram ...Petitioner

(By Mr. Ganesh Kandpal, Advocate)

AND:

District Magistrate/Collector, Bageshwar
& others ...Respondents

(By Mr. Rakesh Kunwar, learned Additional C.S.C. for the
State of Uttarakhand and Mr. M.S. Rawat, Advocate for
the Bank)

JUDGMENT

1. By means of this writ petition, petitioner has sought following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari and call for the record of the case and quash the impugned Recovery notice dated 29.04.2021 (Annexure No. 1 to the writ petition) issued by respondent no. 2.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondent to permit the petitioner to deposit the due loan amount in the installment.

2. Mr. Ganesh Kandpal, learned counsel for the petitioner submits that petitioner is ready and willing to repay the entire outstanding loan amount to the Bank. However, he needs some time for the purpose.

3. Mr. M.S. Rawat, learned counsel appearing for the Bank submits that petitioner took a loan of ₹4.00 lakh in the year 2013 for commercial purpose. He further submits that due to persistent default by the petitioner, Bank was constrained to proceed for recovery of the outstanding loan amount. He further submits that recovery citation, impugned in the writ petition, does not indicate the correct amount, as the said recovery citation was issued pursuant to the recovery certificate issued by the Bank in the year 2016.

4. Annexure No. 2 to the writ petition, is an order dated 09.11.2016 passed by coordinate Bench of this Court in WPMS No. 2997 of 2016. Operative portion of the said judgment is reproduced below: -

“In view of the above, writ petition stands disposed with the direction that if the petitioner deposits an amount of Rs.40,000/- i.e. on or before 25.11.2016 with the bank, the remaining amount shall be recovered from the petitioner in twenty four equal monthly installments, the petitioner shall liable to pay the installment on or before 25th of every month, spread over for a period of twenty four months.

It is further directed that the last installment shall also carry the cumulative interest. It is, however, made clear that in the event of default of any single payment of installment, the bank shall be at liberty to initiate fresh process of recovery against the petitioner.”

5. Mr. M.S. Rawat, learned counsel appearing for the Bank submits that despite the indulgence given by coordinate Bench of this Court vide order dated 09.11.2016, petitioner has not complied with the order, inasmuch as, he had not deposited the amount as indicated in the order of this Court. Petitioner deposited only a small amount and

thereafter he never turned up to deposit the remaining amount. Thus, according to him, petitioner is not entitled to any relief, at this stage.

6. This Court finds substance in the submission made by learned counsel for the Bank. Since petitioner has not deposited the amount in terms of the order passed by coordinate Bench of this Court, therefore, he does not deserve any sympathy or indulgence of this Court.

7. Admittedly, petitioner took a loan, therefore, he is bound to repay the principal amount as well as the amount of accrued interest. Thus, any interference with the recovery proceedings initiated against the petitioner by the bank would be unwarranted.

8. Accordingly, writ petition fails and is hereby dismissed.

(MANOJ KUMAR TIWARI, J.)