

GAHC010078202023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2182/2023

HIREN BALA KALITA
H NO. - 110, P.D CHALIAH ROAD,
1ST BYE LANE , SILPUKHURI,
GUWAHATI-03, ASSAM,

VERSUS

BRANCH MANAGER AND ANR
UNION BANK OF INDIA, CHANDMARI BRANCH,
GNB ROAD, CHANDMARI, GUWAHATI, ASSAM, PIN-781023

2:RECOVERY OFFICER
HONBLE DEBTS RECOVERY TRIBUNAL
SUWARNA BHAWAN
H NO-12

NEW TOWN PATH
NEAR HANUMAN MANDIR
G.S ROAD
ULUBARI
GUWAHATI-0

For the petitioner : Mr. I.S. Mazumdar, Advocate

– B E F O R E –

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

17-07-2023

S. Mehta, C.J.

This writ petition has been preferred by the petitioner herein praying for the following relief;

“1. Directing a stay (Only on Property as mentioned in Schedule "C") of the Eviction order issued by Defendant no 2 favoring defendant no 1 as the petitioner was relived from Guarantorship on 2015.

2. Directing a stay (Only on Property as mentioned in Schedule "C") of the Eviction order issued by Defendant no 2 favoring defendant no 1 as the petitioners Signature was forged on agreement/document dated 17.02.2016 and 30.03.2019.

3. Directing a stay (Only on Property as mentioned in Schedule "C") of the Eviction order issued by Defendant no 2 favoring defendant no 1, allowing the petitioners to approach the competent trial court for forged signatures which in turn can be send to Forensic laboratory (FSL) for investigation.

And /or pass further or other (s) as your Lordship may deem fit and proper”

Mr. I.S. Mazumdar, learned counsel representing the petitioner vehemently and fervently urged that the property owned by the petitioner mentioned in Schedule 'C' of the proceedings before the DRT, Guwahati is no longer under the guarantee towards the loan account of M/s Joy Construction and others because the petitioner withdrew the said guarantee under the Restructuring agreement dated 30.03.2019. He further urged that the signatures of the petitioner were forged on the documents Annexures-D and D-1 and thus, the petitioner deserves liberty to initiate prosecution against the concerned bank officials for

forging her signatures.

We have given our thoughtful consideration to the submissions advanced by Mr. Mazumdar, learned counsel for the petitioner and have gone through the material placed on record.

There is no dispute that the petitioner stood a guarantor in the loan application of the firm M/s Joy Construction, which is owned and operated by the husband of the petitioner, namely, Shri Gangadhar Kalita. There is also no dispute that the loanee defaulted in repayment of loan instalments whereupon the respondent bank filed application for recovery in the DRT, Guwahati by impleading the loanee as well as the petitioner as the party respondents. However, the petitioner seems to have avoided appearing before the DRT whereupon the eviction notice dated 23.03.2023 (Annexure-A-1) was issued and the details of the property offered as guarantee by the petitioner were clearly mentioned therein. The plea set up by the petitioner that her signatures were fabricated on the letter of guarantee cannot be considered in this writ petition because the petitioner herself has not annexed any document with the petition which can indicate that she took steps for withdrawing her guarantee from the loan account of M/s Joy Construction. Hence, we do not find any reason to exercise the writ jurisdiction of this Court so as to extend the relief sought for by the petitioner and hence, the writ petition fails and is dismissed being devoid of merit.

JUDGE

CHIEF JUSTICE

Comparing Assistant