

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2076 of 1998

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M/S Jayshree Press Pvt. Limited, Buddha Colony, Patna through its Director, Binay Prakash Singh, son of late Atma Nand Singh, resident of Mohalla Buddha Colony, P.S. Buddha Colony, District Patna-800 001.

.... Petitioner/s

Versus

1. The Bihar State Financial Corporation through its Managing Director, Fraser Road, Patna-800 001
2. The Managing Director, Bihar State Financial Corporation, Head Office, Fraser Road, Patna-800 001
3. The Chairman, Bihar State Financial Corporation, Fraser Road, Patna
4. The Branch Manager, Bihar State Financial Corporation, Patliputra Central Branch, Indira Bhawan, Ram Charitra Singh Path, Patna
5. The Manager (F & A), Bihar State Financial Corporation, Head Office, Fraser Road, Patna 800 001
6. The Manager (PDL), Bihar State Financial Corporation, Head Office, Fraser Road, Patna 800 001.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Janardan Prasad Singh, Sr. Advocate.

Mr. Dipak Kumar

For the Respondent/s : Mr. Raju Giri

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-03-2015

Heard learned counsel for the petitioner and learned counsel for the Bihar State Financial Corporation.

2. In the present writ petition petitioner is claiming for return of the original documents which was given to the Bihar State Financial Corporation (hereinafter referred to as 'the Corporation') at the time of granting the loan for setting up Printing Press under the partnership of Binay Prakash Singh and Smt. Rama Singh and also made a prayer for return of excess amount which has been paid over and above the dues.



3. From the record it appears that the Corporation has granted two loans for Rs. 13.80 lacs in account no.I and Rs.15.40 lacs in account no. II respectively for the purposes as aforesaid. Later on partnership firm changed its colour and become a Company incorporated in the name and style of M/s Jayshree Press Pvt. Limited under the Companies Act. Petitioner had defaulted to return the loan amount dues to the Corporation. In pursuance thereof the Corporation issued a letter vide memo no.971 dated 11.8.1983 for payment of dues of the Corporation. Petitioner on receipt of the same made a request on 25.2.1985 to the Corporation for condonation of delay in payment of principal amount including interest amount up-to 30.9.1984, that was placed before the Board of Directors of the Corporation and the same was condoned.

4. In the meantime, petitioner has submitted a proposal to the Managing Director, BSFC, Patna which was received in the office on 16.12.1991 with respect to make the unit viable and shown wish to reduce the loan liabilities and also to reduce capacity of unit by disposal of dormant double colour printing machine at a cost of Rs.13.00 lacs through mutual sale either to M/s Diamond Offset Printing Press, Patna, M/s Akashdeep Mudrak, Kankarbagh, Patna and A One lesser Photo Composer,



Mahendru Patna. The proposal of the petitioner was placed before the Board of Directors of the Corporation and after due deliberation the proposal given by the petitioner was accepted and agreed for sale to Akashdeep Mudrak. It also appears that petitioner was also eager to dispose of DTP System with Laser Printer at a consideration amount of Rs.2.25 lacs to M/s A One laser Photo Composer through its promoter M/s Bisheshwar Ranjan Gaur. The same was placed before the Board of Directors and the proposal for selling M/S Akashdeep Mudrak and A One Lesser Photo Composer was accepted.

5. In the present case the Corporation has taken a stand that there was no outstanding dues against the petitioner-Company as well as against Akashdeep Mudrak but claim has been made that outstanding dues is still lying against A One Lesser Photo Composer. It has been mentioned by the Corporation approval for sale was granted subject to the personal guarantee by the petitioner-Company and in pursuance thereof the order was passed as contained in Annexure VIIB to the main writ petition. The petitioner has claimed that personal guarantee is relatable to the old loan, not to the new loan, if it was granted by the Corporation to the A One lesser Photo Composer.

6. The crux of the matter is that as per the claim of the



petitioner that all the outstanding dues relatable to the old loan has already been liquidated. Any fresh loan granted to A One Lesser Photo Composer cannot be treated at the personal guarantee, on that account the Corporation can not refuse to return the deed whereas the Corporation has submitted that outstanding dues against A one Lesser Photo Composer is relatable to the old loan that was standing on the date of sale. Though the petitioner and M/s Akashdeep Mudrak has liquidated the loan but it is A one Lesser Photo Composer who never liquidated the amount and now the same is swelled to hoping amount of Rs. 83 lacs and odd. Annexure R/2 shows that there were three parties to the sale, one is the petitioner-Company, another is M/s A-I Laser Photo Composer and third one is the Corporation. In the sale deed it has been mentioned in clause 10 that the personal guarantee of the original promoters/others shall continue till liquidation of entire dues of the Corporation.

7. The facts are not very clear as has been claimed by the petitioner that all loan amount which was sanctioned to the petitioner has been liquidated. Both the customers have also liquidated outstanding dues relatable to the old dues and after that, there is an order of the Managing Director as well as other



officers to return the documents, as they were of the view that there was no justification for keeping those original documents with them and so much so no dues certificate (Annexure-14) has been issued but the Corporation has taken a different stand and submitted that the loan against A One Lesser Photo Composer relating to old loan, has not been liquidated, in the order as well in the sale deed, it has specifically been mentioned that personal guarantee of the original promoters shall continue in such view of the matter, and as such so long outstanding dues against A One Lesser Photo Composer is not liquidated it is very difficult for the Corporation to return the sale deed.

8. In such view of the matter, let the matter be placed before the Managing Director of the Corporation who will examine the case of the petitioner and if it is found that petitioner as well as purchaser has already liquidated the old loan and outstanding dues which has been shown by the Corporation has nothing to do with the old loan granted to the petitioner then in that circumstance he will pass an order in accordance with law. It is also desirable that the Managing Director of the Corporation will give personal hearing to the petitioner to place his case either by himself or through his lawyer and after giving full hearing pass a reasoned order. This Court hopes and trusts that

Managing Director of the Corporation will dispose of the matter within a period of three months from the date of receipt/production of a copy of this order. Over payment, if any, made by the petitioner will be returned back to him.

9. With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

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