IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7456 of 2009

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Vidyarthi Ram, S/o Late Jokhan Ram, resident of Village- Mohmadpur, P.O.- Sheopur Sakra, P.S.- Asaon, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Agriculture Department, Government of Bihar, Patna.
3. Chief Secretary, Government of Bihar, Patna.
4. The Branch Manager, Punjab National Bank, Assaon Branch, P.S.- Asaon, District- Siwan.
5. Amar Manjhi, son of late Sager Manjhi, resident of Village- Mahmadpur, Principal Secretary- Sheopur Sakra, P.S.- Asaon, District- Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate.

For the Respondent/s : Mr. Mahesh Narain Parbat, Sr. Advocate.
Mr. Ved Prakash Shrivastava, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

2 29-01-2015 Heard learned counsel for the parties as with regard to the following prayer made in this writ application :

> *"1. That by the present writ petition, the poor and helpless petitioner belonging to Scheduled Castes craves indulgence before this Hon'ble Court for issuance of a writ in the nature of Mandamus directing the respondents to return back the security amount of Rs. 40,000/- (Rupees Forty thousand only) alongwith at least 18% interest and also alongwith loss-compensation to the petitioner, which has been illegally captured by the respondent no. 4, and further directing the respondent no. 1 and 2, to exempt the due agricultural loan of amount of Rs. 63, 260/- under the Agricultural loan exemption Scheme of Govt. of India and to drop the all coercive actions against this petitioner for realization of the said dues amount of loans."*

2. Learned counsel for the petitioner submits that though the petitioner was a guarantor and had deposited his two National Savings Certificates by way of furnishing guarantee, but

the authorities of the Bank were not justified in encashing those National Savings Certificates for realization of the loan given to one Amar Manjhi, the principal debtor because no effort was made by the Bank to recover such amount from the aforesaid principal debtor.

3. In the considered opinion of this Court, the agreement between the petitioner and the bank, even in capacity of guarantor, had made him liable for such recovery and, therefore, there would be no reason for this Court to interfere in such matter governed by the agreement between the parties. It is well settled that a guarantor is also jointly and individually liable for the loan taken by the principal debtor.

4. That being so, this writ application is wholly misconceived and is accordingly dismissed. Nothing said in this order, however, will come in the way of the petitioner in moving the appropriate forum/tribunal.

5. When such an observation has been made, learned counsel for the petitioner submits that the plea of limitation may stand in the way of the petitioner if he approaches any appropriate forum/tribunal.

6. While this Court cannot make any general order for condonation of limitation, but if the petitioner files such claim before any court/tribunal, he may definitely explain with regard to

delay by taking plea of the pendency of this writ application and the court/tribunal shall thereafter decide the matter of limitation in accordance with law.

(Mihir Kumar Jha, J)

Sujit/-

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