

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8402 of 2014

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Sujata Devi W/o Shri Anil Kumar Resident of Village Bankipur Gorakh, P.O. Fatuha, District Patna, presently residing at Flat No. 301, 3rd Floor, Peri Hoda Complex, Road No. 6 A, P.O. and P.S. Rajendra Nagar, District Patna.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. Managing Director, Bihar State Financial Corporation, Frazer Road, Patna.
4. The Manager in Charge, Zone V, Bihar State Financial Corporation, Frazer Road, Patna.
5. The Manager (Co-ordination), Bihar State Financial Corporation, Frazer Road, Patna.
6. The Deputy Manager, Zone V, Bihar State Financial Corporation, Frazer Road, Patna.
7. The Branch Manager, Bihar State Financial Corporation, Frazer Road, Patna.
8. Amarendra Kumar S/o Late Moti Yadav Resident of Village Govindpur Daria, P.O. Fatuha, District Patna, presently residing at Old Kankarbagh, Gali No. 15 1/2, P.O.Lohiyanagar, P.S. Patrakar Nagar, District Patna.

.... Respondents

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Appearance:

For the Petitioner	:	Mr. Jai Vardhan Narayan, Advocate
For the BSFC	:	Mr. Y.V.Giri, Sr,Advocate
		Mr. Nikhil Kumar Agrawal, Advocate
For the State	:	Mr. Mrityunjay Kumar Jha, AC to SC 3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-09-2015

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for a direction to the respondent Corporation ('BSFC' for short) to refund the amounts of Rs.8,00,000/- and Rs. 20,69,000/- to the petitioner which have been paid by



her through Bank Drafts for One Time Settlement Scheme of 2009 relating to M/s Sant Kabir Cold Storage Pvt. Ltd., through its Director, Amarendra Kumar (Respondent no. 8) on the basis of an agreement dated 10.11.2010 between the petitioner and the respondent no. 8.

3. It is submitted on behalf of the petitioner that the aforesaid amount had been paid to BSFC through Bank Drafts against the One Time Settlement Scheme for the said Company, the name of which has been struck off under Section 560 (5) of the Companies Act, 1956. It is submitted that Company Petition No. 9 of 2010 filed for revival of the company was however dismissed and inasmuch as the agreement dated 10.11.2010 under which the petitioner was to be made a Director of the Company could not finally be given effect to, the petitioner became entitled to refund of the amount paid to BSFC.

4. Learned counsel for the BSFC on the other hand opposes the writ petition submitting that the loan agreement had been entered into by the BSFC with the respondent no. 8 and not with the petitioner, Any payment made by the petitioner under arrangement with the respondent no. 8 was thus extraneous and to which the BSFC, being not a party, could not be bound by it. The relief sought by the petitioner against the BSFC is therefore not maintainable, there being no privity of contract between the BSFC and the petitioner. Moreover, the amounts in question were received by the BSFC from the respondent no. 8 and not from the petitioner.

5. Having heard the submissions on behalf of the parties and on consideration of the materials on record, this Court is of the view that the writ petition cannot be succeed. If the petitioner has made payments on the strength of the agreement dated 10.11.2010 between her and the respondent no. 8 then her remedy for claim of refund of the same could not lie against the BSFC which was not a party to the said agreement. Moreover, the very claim of the petitioner that she had made payments to the BSFC is in dispute as the BSFC claims to have received these amounts from the respondent no. 8 and not from the petitioner.

6. In the above circumstances, there is no merit in the writ petition which accordingly stands dismissed.

(Vikash Jain, J)

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