

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 470 of 2015**

Dutta Engineering works, 19-K, Heavy Industrial Area, Hathkoj, Bhilai, Distt. Durg, Chhattisgarh Pin 490024 Through Its Partner Shri B.K.Dutta Aged about 58 years S/o Late G.R.Dutta

---- **Petitioner****Versus**

1. State Bank of India Constituted under the State Bank of India Act, 1955 having its Central Office at Nariman Point, Mumbai. Through Branch Manager/Chief Manager, State Bank of India, Industrial Estate Bhilai, District Durg Chhattisgarh Pin Code 490026
2. M/s. Jhabua Power Limited, 6th & 7th Floor, Vatika City Point, (Opp. First India Place) M.G. Road, Gurugaon, 122002

---- **Respondents**

For Petitioner	:	Shri Shrawan Agrawal, Advocate.
For Respondent No. 1	:	Shri P.R.Patankar, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**Per Navin Sinha, Chief Justice****02/07/2015**

1. No one appears on behalf of Respondent No. 2 despite valid service of notice notwithstanding the fact that we had adjourned the matter on the previous occasion also to facilitate Respondent No. 2 for entering appearance.
2. Learned Counsel for the Petitioner submits that bank guarantee submitted by it to Respondent No. 2 under the contract in question was valid till 3.2.2015. The communication dated 23.1.2015 by Respondent No.2 was not an invocation of the Bank Guarantee. It was an ambivalent communication. The Bank Guarantee has stood lapsed on 3.2.2015 and the Respondent No.2 is now required to release the security.
3. Learned Counsel for Respondent No. 1 has not been able to persuade us from the nature of the language used in the communication dated

23.1.2015 that it was unequivocal invocation of the bank guarantee before its expiry. It is not denied that the guarantee was not encashed and has stood lapsed on 3.2.2015.

4. The writ petition is allowed. It is held that the bank guarantee furnished by the Petitioner on 6.5.2013 in favour of Respondent No. 2 stood expired on 3.2.2015 and the question of its invocation or payment under the same by Respondent No. 1 does not arise. The Respondent No.1 shall proceed to relieve the security.

5. The writ petition is allowed and disposed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE