IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3872 of 2016

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Archana Devi @ Archana Kumari, wife of Late Kumud Kumar Singh, resident of Village Bihat, Tola Gurdaspur, P.S. Barauni, District Begusarai.

.... Petitioner

Versus

1. The Chairman, State Bank of India, State Bank Bhawan, Madam Cama Road, Mumbai- 400021.
2. The A.G.M., Stress Asset's Recovery Branch, State Bank of India, 2nd Floor, State Bank Main Branch, Opposite Gandhi Maidan, Patna.
3. The Branch Manager, State Bank of India, Barauni Refinery Townships (BRT) Branch, P.S. Begusarai, District Begusarai.
4. M/S Kisan Diesel Electrical through its proprietor Om Prakash, N.H.- 31, Opposite Gyan Bharti School, Begusarai.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kumar Sinha, Advocate
For the S.B.I.	:	Mr. Kaushlendra Kumar Sinha, Advocate
For Respondent No.4	:	Mr. Mrigank Mauli with Mr. Saroj Kumar Sharma, Advocates

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL ORDER

10 29-08-2016 Heard learned counsel for the petitioner and learned counsel for the State Bank of India.

The petitioner seeks a direction on the respondent Bank to realize the loan from the borrower, respondent No.4 and also to discharge her from the liability as guarantor of the said loan.

The facts of this case lie in a narrow compass.

The petitioner stood guarantor for the loan taken by respondent No.4 for running a shop whose proprietor is stated to be the sister's son of the petitioner. It is not in dispute that respondent No.4 did not have any immoveable property of his own for putting it up as a security for the loan that he had taken only on the strength of the mortgage of property of the petitioner for which the Bank had granted loan to respondent No.4. The stand of the petitioner is that since the shop was still running in the vicinity of the Bank itself therefore the Bank ought to have taken steps first to seize the goods in the shop and sell it before any action was taken against the petitioner.

The counter affidavit filed on behalf of respondent No.4 gives a very different picture of the internal dispute between the respondent No.4 on the one hand and the petitioner and the son of the petitioner on the other with allegations of the latter having ousted the petitioner from the three businesses and the manner in which it had been done.

The Bank can have no concern about such internal family dispute of the petitioner. The fact remains that the petitioner had come forward to stand as surety by mortgaging the property in favour of the Bank for the said cash credit loan to be given to respondent No.4 and has taken the liability of guarantor in the matter.

It is submitted by learned counsel for the Bank that the Bank has not yet initiated any proceeding either against the borrower or the petitioner, as a matter of fact, because of stay granted by this Court on earlier occasion on 3.3.2016. Since the petitioner has obtained stay by this Court and the period of the document has not been extended by the petitioner the loan itself may become irrecoverable after 31.8.2016.

In view of the stand of the Bank it appears that the petitioner has suppressed the facts and created a situation in which the loan of the Bank may become irrecoverable on account of the action of the petitioner in having filed the writ petition and obtained a stay and thereafter not acting in good faith to extend the period of the security of the document in question.

In the above circumstances, the writ application is dismissed. Needless to say, any interim order passed earlier also stands vacated.

(Ramesh Kumar Datta, J)

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