

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17587 of 2015

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1. Mahendra Prasad Jaiswal S/o Late Jagarnath Prasad R/o Vill & P.S. Mohania,
Dist- Kaimur (Bhabhua).

.... Petitioner/s

Versus

1. Madhya Bihar Gramin Bank through its Chairman Sri A.K. Bhatia. Head Office Meena Plaza, South of Museum Patna- 800001. null null
2. General Manager Sri K.K. Upadhyay, Madya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna 800001.
3. Branch Manager, Madhya Bihar Gramin Bank, Branch Darwa, P.S.- Mohania, Dist- Kaimur.
4. Assistant Branch Manager, Madhya Bihar Gramin Bank, Branch- Darwa, P.S.- Mohania, Dist- Kaimur.
5. Ravi Prasad Singh, S/o Vindhyachal Singh Vill+P.O.+P.S.- Mohania, Dist- Kaimur at Bhabhua.
6. Guru Prasad Singh, S/o Vindhyachal Singh, Vill+P.O.+P.S.- Mohania, Dist- Kaimur at Bhabhua.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pancham Lal Jaisawal

For the Respondent/s : Mr. Sharad Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-09-2017

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

In the present case, petitioner is claiming that he has
mortgaged 10 decimals of land to the Bank but in paragraph no.8
land has been shown to 15 decimals which has been mortgaged
to Madhya Bihar Gramin Bank for loan amount of Rs.15,00,000/-

The business was started in the name and style of Shiv
Shakti Traders which is a Kirana Shop could not earn profit led



to declaration of NPA

Learned counsel for the petitioner submits that the land should be auction sold, adjust the amount of loan from the amount recovered from auction sale and pay rest amount to the petitioner as he has submitted that he has also given Rs.2 lacs of liquidate security to the Bank. But in the counter affidavit a different fact has been brought to the notice of this Court which reflects that wrong facts has been stated in the writ petition, as it is clear, fraud has been played.

As per counter affidavit 15 decimals of land was mortgaged for doing the business of wholesale of Maa Mundeshwari Traders, Station Road, Mohania. The petitioner was the borrower and his brother Nagendra Prasad Jaisawal became guarantor. TDR of Rs.2 lacs was given as security amount, thereafter no payment has been made, when the Bank started its NPA proceeding then it could know that on the same land his brother has taken loan of Rs.50 lacs for running business of Shiv Shakti Traders. It has also transpired that loan is standing in the name of his brother Nagendra Prasad Jaisawal and after taking loan he has sold the land to the present petitioner and present petitioner in turn has mortgaged the same property for



obtaining the loan of Rs.15 lacs from Madhya Biahir Gramin Bank. For his fraud an FIR has been lodged vide Mohania P.S. Case No.452 of 2015.

Learned counsel for the petitioner submits that petitioner has not committed any fraud rather he has taken only loan. It was the duty of the Bank Official to verify whether the land in question was loaded with encumbrance or not. There is already legal department to look into the matter. They have failed to discharge their duty and he has only taken loan of Rs.15 lacs and the property is of very huge value. He has further submitted that he was duped by his partner and on that account he has suffered loss.

Considering the facts mentioned in the writ petition it appears that petitioner has suppressed the fact that the same land was carrying a load of Rs.50 lacs loan and petitioner has also not mentioned that criminal case has been lodged against him. But mere a simple prayer has been made by him that property in question should be sold out and whatever the return comes it should be adjusted and rest amount should be paid to him.

This Court finds that present petitioner has not come with the clean hand but he has suppressed the real fact.



Accordingly this writ petition is dismissed. However, the Bank will be at liberty to take action against the petitioner for recovery of the amount.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.9.2017
Transmission Date	NA

