IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19266 of 2017

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M/s Gopal Industries through it's proprietor Krishna Kumar Nayak, son of Laxmi Nayak, resident of village- Supaul Bazar, Post Office- Biraul, District- Darbhanga.

... ... Petitioner

Versus

1. The Branch Manager, State Bank of India, Supaul Bazar Branch, Biraul, P.O. Biraul, District Darbhanga.
2. The Divisional Manager, New India Insurance Company Limited, Muzaffarpur, AT and P.O.- Muzaffarpur, District Muzaffarpur.
3. The Branch Manager, New India Insurance Co. Ltd., Darbhanga At and P.O.- Darbhanga, District- Darbhanga.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Shambhu Nath Jha, Advocate
For the SBI	:	Mr.Kaushlendra Kumar Sinha, Advocate Mr.Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 14-08-2019 It is not the case of the petitioner that the loan in question was covered by any insurance policy. Petitioner has moved this Court under Article 226 of the Constitution of India for an order of restraint against the Bank when he was served with a notice dated 15.12.2016 calling upon him to make payment of the outstanding amount lying in the loan account which has already been declared as non-performing assets.

Learned counsel for the petitioner submits that in fact the petitioner has filed a Money Suit bearing No. 03 of 2016 in the Court of learned Sub Judge, Biraul, Darbhanga for payment of Rs. 20,00,000/- on account of the insurance claim, interest and cost of the suit. In Paragraph 13 of the writ application it is stated that the suit has been filed against the Insurance Company.

It further appears that the petitioner has challenged the repudiation action of the Insurance Company as communicated to him vide letter dated 11.04.2014 as contained in Annexure 'P/8' to the writ application. The money suit has apparently been filed after the repudiation of claim and being aggrieved by the order of repudiation as has been claimed by the petitioner himself.

Learned counsel for the Bank submits that the payment of outstanding amount lying in the loan account of the petitioner cannot be linked with the fate of the money suit filed by the petitioner against the Insurance Company.

In the given facts and circumstances of the case, this Court finds no reason to entertain the present writ application. The petitioner is admittedly a defaulter in the payment of his loan. The account has become non-performing assets and in such circumstance the Bank has served notice calling upon the petitioner to pay the entire outstanding amount as regards the loan. The petitioner is already pursuing his remedy before the civil court against the Insurance Company.

Learned counsel for the petitioner at this stage submits that perhaps filing of the money suit challenging the repudiation action of the Insurance Company would have been avoided in view of availability of efficacious remedy to the petitioner by filing a complaint before the Ombudsman under the Redressal of Public Grievances Rules, 1988. This Court is of the opinion that it is for the petitioner to seek legal advise on this issue and take appropriate steps accordingly. The order of this Court will not come in his way in pursuing any legal remedy which may be available to him. In case any such legal remedy is applied for by the petitioner, the same will be entertained by the competent forum keeping in view that the petitioner was pursuing his remedy before this Court under bonafide belief.

The writ application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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