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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 30/2020 and C.M. APPL. 77/2020 (stay)**

SURENDER KUMAR

..... Petitioner

Through: Mr. Dalip Kumar Santoshi and Mr.
Anil Kumar, Advocates.

versus

THE DELHI STATE CO-OPERATIVE BANK LTD. AND ORS.

..... Respondents

Through:

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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15.01.2020

1. The Petitioner is aggrieved by the arbitration award dated 26th September, 2016 and the order dated 14th November, 2018 disposing of an appeal thereagainst, by which the Petitioner, as a guarantor for the loan availed by the original borrower, was held jointly and severally liable to make payments to the Respondent No. 1 bank.

2. The Petitioner also seeks a writ of mandamus directing the Respondent No. 1 bank to recover the entire loan amount from the legal representatives ('LRs') of the deceased original borrower.

3. Learned counsel for the Petitioner does not dispute that he in fact stood as guarantor for the loan availed by the original borrower from the Respondent No. 1 bank. His submission is that the bank is making recoveries not only

from the original borrower, but also from the Petitioner, and given the present financial status of the Petitioner, the direction to recover as much as Rs. 10,000/- from his salary is unfair.

4. As long as the Petitioner does not dispute having stood as guarantor for the loan borrowed by the original borrower, it is open to the Respondent No. 1 bank to proceed against him and the borrower both jointly and severally.

5. With the arbitral award and appellate order against the Petitioner, the Court is unable to appreciate how a direction can be issued to the bank to not proceed against the Petitioner but only proceed against the LRs of the original borrower. The relief sought cannot be granted.

6. The petition is dismissed. Pending application is also disposed of. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 15, 2020

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