

Balram Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Feb-19-2002

Reported in : 2002(2)AWC910; (2002)2UPLBEC1138

Judge : M. Katju and ;Rakesh Tiwari, JJ.

Appeal No. : C.M.W.P. No. 6902 of 2002

Appellant : Balram

Respondent : State of U.P. and ors.

Advocate for Def. : Prakash Krishan, Adv. and ;S.C.

Advocate for Pet/Ap. : N.K. Trivedi and ;O.P. Tripathi, Adv.

Judgement :

M. Katju and Rakesh Tiwari, JJ

1. Heard Sri N.K. Trivedi, learned counsel for the petitioner and Sri Prakash Krishan, learned counsel for the respondents.

2. The petitioner has challenged the impugned recovery certificate dated 22.1.2002. The petitioner is a guarantor of the loan granted to Shiv Pal Singh by respondent No. 3. It is well-settled that the liability of the guarantor is co-extensive with that of the principal debtor. Hence, we cannot interfere with the impugned

recovery.

3. Learned counsel for the petitioner has submitted that respondent Nos. 2 and 3 should first proceed against the principal debtor before proceeding against the guarantor. There is no such requirement in law, and hence we cannot give any such direction. It is the discretion of the creditor whether to proceed against the principal debtor or the guarantor. We, however direct that no recovery charges shall be realised from the petitioner.

4. With the aforesaid observations, the writ petition is disposed of finally.

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