HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 14837/2025

Devilal Dangi S/o Shri Modaji Dangi, Aged About 75 Years, R/o 733, Ram Singh Ji Ki Badi, Sector 11, Hiran Magri, Udaipur.

----Petitioner

Versus

1. State Bank Of India, Sme, Laghu Udhyog Branch, Central Office At Madam Kama Road, Nariman Point, Mumbai (Maharashtra).
2. The Chief Manager, State Bank Of India, Nepune Tower, Annexe, Opposite Gandhigram Railway Station, Ashram Road, Ahmedabad-380009.
3. The District Collector, Udaipur.
4. M/s. Zenith Corporation (Borrower Unit), 911 Time Square, Thaltej, Ahmedabad (Gujarat).
5. Manish Dangi S/o Shri Govind Lal Dangi, M/s Zenith Corporation, 41, Amrunthas Vila Behind Sal College, Bhadaj, Ahmedabad (Gujarat).

----Respondents

For Petitioner(s)	:	Mr. Lakshay Singh Udawat Mr. Dilip Singh Udawat
For Respondent(s)	:	Mr. Jagdish Chandra Vyas

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

11/05/2026

1. By way of the present civil writ petition under Article 226 of the Constitution of India, the petitioner has sought following reliefs :-

"It is therefore, prayed that the writ petition may kindly be allowed and the record of the case may kindly called for and:

a) By an appropriate writ order or direction, the respondent bank may kindly be directed not to take physical possession of the residential house no. 733 at Ram Singh Ji Ki Badi, Sector 11. Hiran Magri, Udaipur.

b) By an appropriate writ, direction or order, the respondent bank may kindly be directed to first proceed against borrower for recovery of total outstanding towards cash credit facility

extended to the borrower by auctioning the immovable properties available at Udaipur.

c) *Any other appropriate direction or order which this Hon'ble Court deems fit in the facts and circumstances of the case may kindly be granted.*

d) *Cost of this writ petition may kindly be awarded in favour of the petitioner."*

2. Learned counsel for the petitioner submits that respondent No.4 is a partnership firm, wherein respondent No.5 holds 97% of the total share (hereinafter referred to as "the borrower"). The respondent No.4 (firm) had availed a cash credit facility to the extent of Rs.80,000,000/- from the State Bank of India under a loan agreement executed with respondent – Bank. It is further submitted that the petitioner and respondent No.5 are related as nephew and uncle, and at the time of availing the said loan facility, respondent No.5 requested the petitioner to stand as guarantor for the loan. The petitioner, however, is neither a partner nor a shareholder in the borrowing firm. It is submitted that, acting upon such request, the petitioner mortgaged his sole residential property as collateral security. It is further submitted that the borrower defaulted in repayment of the monthly installments payable to respondent – Bank, consequently, the loan account was classified and declared as a Non-Performing Asset (NPA) on 13.11.2023.

3. Upon the loan account being classified and declared as a Non-Performing Asset (NPA), respondent – Bank, issued a demand notice dated 15.11.2023 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the Act of 2002") jointly to the borrower and guarantors. It is further

submitted that, in the interregnum, respondent – Bank also initiated proceedings under Section 19(4) of the Act of 2002 before the Debt Recovery Tribunal-I, Ahmedabad by filing an application, wherein notice has been served upon the petitioner. The said application is presently pending adjudication before the learned Tribunal.

4. It is further submitted that respondent – Bank thereafter preferred an application under Section 14 of the Act of 2002 before the Collector and District Magistrate, Udaipur, which came to be allowed, and pursuant thereto, the learned Collector issued orders for taking possession of the petitioner's mortgaged sole residential house. It is, however, submitted that no corresponding action or order has been initiated for taking possession of the properties belonging to the borrower. It is, therefore, prayed that the petitioner, being a senior citizen and owner of a sole residential house, may be afforded protection of his rights, and respondent – Bank be directed to proceed with recovery of the outstanding dues primarily from the borrower.

5. Learned counsel for respondent – Bank has opposed the submissions advanced on behalf of the petitioner and has prayed for dismissal of the present civil writ petition. It is submitted that the petitioner's contention that respondent – Bank ought to first proceed against the borrower for recovery of the outstanding dues before initiating action against the petitioner is misconceived and untenable in law. It is a well-settled principle that the borrower as well as the guarantors are jointly and severally liable to discharge the outstanding liability in the event of default. It is further submitted that the petitioner had voluntarily executed a guarantee

for the loan facility and had also created a mortgage over his residential property as security for the said loan. It is thus submitted that all concerned parties, including the borrower and the guarantors, are equally liable to satisfy the outstanding dues, and the action initiated by respondent – Bank, is in accordance with law and warrants no interference of this Court. In support of his contentions, learned counsel has placed reliance upon a judgment rendered by this Court in ***Nandini Goyal & Ors. versus The District Collector & Ors.*** in ***S.B. Civil Writ Petition No.7322/2025***, decided on 09.04.2025, wherein this Court while relying on a judgment rendered by the Hon'ble Supreme Court in the case of ***Industrial Investment Bank of India Ltd. vs. Biswanath Jhunjhunwala***, reported in ***(2009) 9 SCC 478***, dismissed the writ petition and held as under :-

> *"5. So far as the fact that the petitioners have stood as guarantor in relation to the loan advanced to M/s. Pahadi Packers is not in dispute. The respondent – Bank can proceed against the property of the guarantor in terms of the loan agreement. There is no illegality in the order impugned.*
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> *6. The aforesaid position of law has already been settled by Hon'ble the Supreme Court in catena of judgments including the judgment rendered in the case of* ***Industrial Investment Bank of India Ltd. vs. Biswanath Jhunjhunwala****, reported in* ***(2009) 9 SCC 478****, wherein the following observation has been made by Hon'ble the Supreme Court:*
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> > *"The legal position as crystallized by a series of cases of this court is clear that the liability of the guarantor and principle debtors are co-extensive and not in alternative."*

6. In response, learned counsel for the petitioner submits that the petitioner has identified and proposed a prospective purchaser for the mortgaged residential property, which is presently being

proceeded against for recovery of the outstanding dues by way of auction. It is therefore prayed that respondent – Bank be directed to consider the said proposal in accordance with law.

7. After arguing for some time, learned counsel for the petitioner does not want to press the present civil writ petition, however, he seeks liberty for the petitioner to seek appropriate legal remedy available to him.

8. Accordingly, the present civil writ petition along with the stay application and all pending application(s), if any, are disposed of.

9. In the meanwhile, and for a period of fifteen (15) days from today, i.e., up to 25.05.2026, the property of the petitioner shall remain protected from any coercive action pursuant to the proceedings initiated by respondent – Bank for recovery of dues.

10. However, it is made clear that upon expiry of the aforesaid period of fifteen (15) days, the interim protection granted herein shall stand automatically vacated without any further reference to this Court.

(MUKESH RAJPUROHIT),J

267-mSingh/-