

FRIDAY | 19 MAY 2023

## Case Update



# IDBI BANK LTD VS POWER FINANCE CORPORATION & ORS, W.P. (C) 11946 OF 2018



The Hon'ble High Court of Delhi High by Judgment dated 12.05.2022 has dismissed a Writ Petition filed by a Nationalize Bank seeking quashing of the notice for invocation of Bank Guarantee on ground of maintainability as the Petition had contractual roots and the determination of issue was a question of fact which required leading of evidence and interpretation of contract which cannot be exercised in a Writ Jurisdiction.

In the instant case, one of the grounds for Bank to invoke the Writ Jurisdiction was that its customer on whose behalf the Bank Guarantee was issued is under liquidation, therefore, it would not be able to exercise its right of subrogation and recover the amounts. The High Court has specifically observed that a Bank is supposed to conduct a thorough credit analysis of its customer and to obtain an adequate security to protect its customer in the event of default, therefore, failure on part of Bank in its assessment cannot be a ground to entertain a Writ Petition.

High Court has rightly restrained the Bank from invoking the Writ jurisdiction as the issue arising from a Bank Guarantee exclusively fall within the domain of private law, fundamentally contractual in nature and lacks elements of public law which is the pre-requisite to invoke the Writ Jurisdiction.

M/s South East U.P. Transmission Company Limited represented by Shri Venkatesh (Managing Partner), Siddharth Joshi (Senior Associate) and Abhishek Nangia (Senior Associate). Link of the order is produced [here](#)