

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5390 of 2015

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Sugrib Singh @ Sugrib Sharma S/O Vamdeo Sharma, resident of village-
Salempur, P.S. Hulashganj, Dist- Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar Patna.
2. The Principal Secreatry, Mines and Geology Department, Govt. of Bihar, Patna.
3. The Commissioner, Mines and Geology Department, Govt. of Bihar, Patna.
4. The Commissioner, Magadh Division, Gaya.
5. The District Magistrate, Gaya.
6. The Superintendent of Police, Gaya.
7. The Certificate Officer, Mines & Geology Magadha Circle, Gaya.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 5461 of 2015

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Sugrib Singh @ Sugrib Sharma S/O Vamdeo Sharma, resident of village-
Salempur, P.S. Hulashganj, Dist- Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar Patna.
2. The Principal Secretary, Mines and Geology Department, Govt. of Bihar, Patna.
3. The Commissioner, Mines and Geology Department, Govt. of Bihar, Patna.
4. The Commissioner, Magadha Division, Gaya.
5. The District Magistrate, Gaya.
6. The Superintendent of Police, Gaya.
7. The Certificate Officer, Mines & Geology Magadha Circle, Gaya.

.... Respondents

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Appearance :

(In CWJC No. 5390 of 2015)

For the Petitioner : Mr. Vinod Kumar, Advocate
For the State : Mr. Pawan Kumar, A.C. to G.A.9
For Respondent No.7 : M/s. D.K. Sinha, Senior Advocate and
Rajendra Prasad, Advocate

(In CWJC No. 5461 of 2015)

For the Petitioner : Mr. Vinod Kumar, Advocate
For Respondents 1,4,5 & 6 : Mr. Sudhir Kumar, A.C. to AAG-2
For Respondents 2 & 7 : M/s. D.K. Sinha, Senior Advocate and
Rajendra Prasad, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 20-05-2015

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I have heard learned counsel for the petitioner and learned counsel appearing for the Mines and Geology Department.

Since identical issues are involved in both the matters, they are being considered together and are being disposed of by a common order.

Petitioner seeks quashing of entire proceeding in certificate case concerned on the ground that no notice has ever been issued under Section 7 of the Bihar & Orissa Public Demand Recovery Act, 1914 (hereafter to be referred to as “the Act”) and above all, it is contended that the petitioner has never operated in brick kiln and a wrong requisition for recovery against the petitioner was made on which the certificate case has been initiated. Learned counsel for the petitioner has relied upon a decision of this Court dated 23.02.2015 rendered in C.W.J.C. No.2924 of 2015, a copy of which has been appended as Annexure-4 and seeks disposal of the case on similar term.

In my considered opinion, whether the petitioner was running a brick kiln or not or whether any amount was issued against him, i.e., required to be recovered or not. Are the question to be decided by the Certificate Officer after granting reasonable

opportunity of hearing to the petitioner and upon his objection filed under Section 9 of the Act?

Since the petitioner claims that notices under Section 7 of the Act were not served upon him, this Court would be inclined to give him one opportunity for filing objection under Section 9 of the Act.

Let the petitioner file his objection within eight weeks from today. In case, such objection is filed, let the same be decided and disposed of on its own merit and in accordance with law by the Certificate Officer concerned.

In above view of the matter, the warrant of arrest on attachment as contained in Annexure-3 is quashed and set aside.

However, it is made clear that after a decision is taken by the Certificate Officer, he would be at liberty to proceed further in accordance with the decision taken by him upon the objection filed by the petitioner.

Both the writ applications stand disposed of.

(Dr. Ravi Ranjan, J)

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