

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.642 of 2014

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Indradev Kumar @ Indradev Prasad Son Of Late Bhuvneshwar Sah Resident Of
Village- Dariyapur, P.S.- Jamalpur, District- Munger

.... Petitioner

Versus

1. The State of Bihar
2. The Deputy Development Commissioner, Munger
3. The District Magistrate, Munger
4. The Block Development Officer Block- Jamalpur Cum Executive Officer,
Panchayat Samiti, Jamalpur District- Munger
5. The Certificate Officer, Munger

.... Respondents

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Appearance :

For the Petitioner : Ms. Sushmita Mishra, Advocate
Mr. Surya Narayan Sah, Advocate
For the State : Mr. Manish Kuma 3, AC to SC 6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-10-2015

Heard learned counsel for the petitioner and learned
counsel for the Respondents.

2. As prayed, learned counsel for the petitioner is
permitted to delete Respondent No. 6 and 7 from the array of
parties in course of the day.

3. The present writ petition has been filed for
quashing the demand notice dated 02.04.2012 issued by the
Certificate Officer, Munger purportedly under Section 7 of the
Bihar and Orissa Public Demands Recovery Act (for short, "the
Act") in Certificate Case no. 06/2011-12 for realization of

demand of Rs. 8,95,377.20 from the petitioner.

4. It is submitted that the impugned notice dated 02.04.2012 is invalid as the same was not accompanied by a copy of the certificate as mandated under Section 7 of the Act, in absence of which the petitioner was prevented from filing an effective objection. It is further submitted that as a consequence thereof the entire certificate proceeding has been rendered invalid.

5. Learned counsel for the respondents submits on the basis of counter affidavit that the petitioner has duly received the impugned notice, but no objection under Section 9 of the Act has been filed.

6. This Court is of the view that in terms of Section 7 of the Act, the impugned notice dated 02.04.2012 was required to be served along with a copy of the certificate. The said provision reads as follows -

“Service of notice and copy of certificate on certificate debtor- When a certificate has been filed in the office of a certificate officer under Section 4 or Section 6, he shall cause to be served upon the certificate-debtor, in the prescribed manner, a notice in the prescribed form and a copy of the certificate.

7. In the above view of the matter, the impugned notice dated 02.04.2012 issued under Section 7 of the P.D.R. Act is

hereby quashed. The matter is remitted to the Certificate Officer, Munger (Respondent no. 5) for issuance of fresh notice under Section 7 of the Act accompanied by a copy of certificate, before proceeding in the matter in accordance with law.

8. The writ petition stands allowed.

(Vikash Jain, J)

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