

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7896 of 2010

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Goyind Rao, S/O Late Surya Narain Rao, Sadanand Trading Company,
Exhibition Road,P.S.- Gandhi Maidan, District- Patna.

.... Petitioner/s

Versus

1. The Bihar State Financial Corporation, Fraser Road, Patna through its Managing Director.
2. The Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
3. The Branch Manager, Bihar State Financial Corporation, Patna Branch Office, Indra Bhawan, 5th Floor, Ramcharitra Path, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subhash Chandra Bose
Mr. Manik Vedasen

For the Respondent/s : Mr. K.D.Chatterji, Sr. Adv.
Mr. V.K. Tripathy

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 18-03-2015

Heard the parties.

The petitioner is aggrieved by the notice/ communication dated 10.11.2009 (Annexure-5) issued by the respondent no.3 asking the petitioner to pay the dues of the Bihar State Financial Corporation (In short Corporation) within 21 days, failing which adversial steps shall be taken against the petitioner with respect to the lands allotted to him .

Learned counsel appearing on behalf of the petitioner submits that while issuing the aforesaid demand notice the petitioner has been threatened that if the dues of the Coporation is not cleared by him within 21 days, then the Corporation will allow BIADA to redeem mortgage on getting payment from them, since they have interest in the land as lessor of the land allotted to the petitioner. It is pointed out that on receiving the aforesaid demand notice, the petitioner filed a detailed representation dated 26.11.2009 (Annexure-

6) before the respondent no. 3 raising his various objections with respect to the aforesaid demand notice. It is the case of the petitioner that the representation filed on his behalf raising various objections with respect to the aforesaid demand notice dated 10.11.2009 has not been disposed of till date.

Learned counsel appearing on behalf of the respondents has resisted the prayer made on behalf of the petitioner by referring to the averments made in the counter-affidavit filed on behalf of the respondent no. 1, 2 and 3. According to him, all the defaulting promoters, whose units were established in the Industrial Area of Bihar, were advised to make payment of dues, failing which the charge of the corporation over the assets will be surrendered in favour of BIADA. It is contended that, in fact, aforesaid notice was not a threatening letter, rather it was merely an intimation to the petitioner. By referring to the averments made in paragraph-6 of the counter-affidavit, it is further contended that BIADA has not taken any action with regard to the mortgaged assets of the petitioner unit, therefore, the impugned demand notice has practically become infructuous. He has also stated before this Court that the respondent Corporation is not proposing to take any follow up action against the petitioner's unit by virtue of the aforesaid demand notice, save and except to realise the dues of the Corporation from the petitioner. However, in the counter-affidavit filed on behalf of the respondents, it has not been stated that the objections raised by the petitioner with respect to dues of the Corporation has finally been disposed of.

In above view of the matter, it is apparent that there are certain issues which are yet to be finalized by the competent authority of the respondent Corporation. Whether the petitioner is entitled to the benefits of one time settlement scheme is also required to be gone

into, provided it is still under vogue. How much amount is payable by the petitioner to the respondent Corporation is required to be recalculated once again after taking into consideration the objections raised by the petitioner.

For the reasons recorded above, the petitioner is directed to file a fresh comprehensive representation before the respondent no.2 with all supporting documents raising all his grievances/claims/entitlement with respect to the property in question within a period of four weeks from today.

If such a comprehensive representation is filed by the petitioner with a certified copy of the present order, then the respondent no.2 shall be obliged to consider the same in accordance with law, and after taking into consideration the objections raised by the petitioner, he shall pass appropriate final order indicating the liability of the petitioner, whereafter the petitioner shall be obliged to pay outstanding dues of the Corporation within a reasonable period of time fixed by the respondent No.2.

The writ petition stands finally disposed of with the observations and directions made above. The interim order dated 05.05.2010 passed by this Court stands vacated.

(Birendra Prasad Verma, J)

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