

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8314 of 2010

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M/S Sheojee Rice Mills At + P.O.- Dinara, Distt.- Rohtas, through its Partner Sri
Aryind Kumar Ojha

.... Petitioner/s

Versus

1. The Bihar State Financial Corporation Limited, Fraser Road, Patna through its Managing Director
2. The Zonal Manager Zone-V, Bihar State Financial Corporation Limited, Fraser Road, Patna- 800001
3. The Branch Manager Bihar State Financial Corporation Limited, Shahabad Branch, Arrah

.... Respondent/s

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Appearance :

For the Petitioner/s :	Mr. Dhanendra Chaubey
For the Respondent/s :	Mr. K.D. Chatterjee, Sr. Adv.
	Mr. V. K. Tripathy

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 18-03-2015

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of demand notice dated 19.03.2010 (Annexure-12) issued under the signature of the respondent no.3.

Initially, this Court was not inclined to interfere with the impugned demand notice, but by referring to different documents available on the record, learned counsel appearing on behalf of the petitioner has succeeded in demonstrating before this Court that calculation made by the respondent Bihar State Financial Corporation Ltd. (in short Corporation) and its functionaries with respect to outstanding dues against the petitioner is apparently wrong and inaccurate. According to him, the matter requires fresh decision and outstanding dues against the petitioner is required to be recalculated after taking into consideration the payments already made by the petitioner.



Learned counsel appearing on behalf of the petitioner submits that in the year 1978, petitioner- M/S Sheojee Rice Mill had taken a loan amount of about Rs. 5.70 lacs from the respondent Corporation and after some payments, it defaulted in making payment of instalments. However, when the unit was put on sale by the Corporation in the year 1992, Shri Arvind Kumar Ojha and Sri Ram Bachan Pandey, being the partners of the aforesaid M/S Sheojee Rice Mill firm purchased the unit with the permission of the respondent Corporation. According to him, at that time outstanding dues of the Corporation was Rs. 15, 66, 633/-. It is not in dispute that the purchasers were required to pay 55% of total outstanding dues of the Corporation as on 31.03.1992.

It is the case of the petitioner that after payment of substantial amounts, total outstanding dues against the petitioner as on 15.09.1998 was only Rs. 1,93, 833/-, which is reflected by the notice dated 19.09.1998 (Annexure-5) issued by the respondent no.3. The petitioner claims to have made payments thereafter also, yet by the impugned demand notice (Annexure-12) a demand of Rs. 15,76,064 is being made. By referring to Annexure-11, it is pointed out that by notice dated 23.11.2009, the outstanding dues against the petitioner shown was Rs. 16,62,238/- and thereafter the petitioner has not made any payment, but in the year 2010 by issuing the impugned notice dated 19.03.2010 (Annexure-12) only an amount of Rs. 15,76,064/- is being asked to be paid. By referring to the aforesaid two documents, learned counsel appearing on behalf of the petitioner submits that the calculations made by the respondent Corporation are apparently wrong and incorrect. All the payments made by the petitioner have not been taken into consideration. Therefore, according to him, impugned demand notice is liable to be set aside.

Learned counsel appearing on behalf of the respondents has opposed the prayer by referring to the averments made in the counter-affidavit filed on their behalf. However, it appears that all the facts pleaded in the writ petition have not been properly answered by the respondents in their counter-affidavit.

After having heard the parties and taking into consideration the materials available on record, this Court is of the opinion that this matter requires reconsideration and a fresh decision at the level of the Managing Director of the respondent Bihar State Financial Corporation Ltd, after taking into consideration the entire payment made by the petitioner up-to-date.

In the aforesaid factual matrix, the petitioner is hereby directed to appear before the Managing Director of the Respondent Corporation within a period of four weeks from today with a fresh comprehensive representation and all supporting documents as also with a certified copy of the present order. If the petitioner appears before the Managing Director of the respondent Corporation in the manner indicated above, then he shall be obliged to consider and decide his claims by a reasoned and speaking order, and while doing so all the payments made by the petitioner or his partner Shri Ram Bachan Pandey up-to-date, shall be taken into consideration and thereafter fresh demand notice shall be issued to the petitioner. On issuance of fresh demand notice, the petitioner and/or his partner shall be obliged to make payment of the entire outstanding dues of the Corporation within a reasonable period of time fixed by the Managing Director of the respondent Corporation. In case the petitioner fails to make payment of the outstanding dues within the reasonable time fixed by the Managing Director, the respondent Corporation and/or its functionaries shall be at liberty to proceed further in accordance with

law for recovery of its dues against the petitioner- firm.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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