

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3761 of 2015

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Ajit Kumar Jha, son of Rajendra Jha, Resident of village - Belari, P.S. - Ujiyarpur,
District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate Samastipur.
3. The District Certificate Officer, Samastipur.
4. The Branch Manager, State Bank of India (ADB), Kashipur Branch, Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vinay Ranjan, Advocate
For S.B.I. : Mr. Kaushlendra Kumar Sinha, Advocate
For the State : Mr. Arvind Kumar, A.C. to S.C.28

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 25-03-2015

Heard learned counsel for the petitioner, State and the
State Bank of India.

A short grievance has been raised on behalf of the
petitioner at the time of hearing that the distress warrant has been
issued upon the petitioner in the certificate case without taking any
decision upon the objection filed by the petitioner under Section 9 of
the Bihar & Orissa Public Demand Recovery Act, 1914 denying the
liability.

Learned counsel for the State Bank submits that since the
petitioner had filed objection after 30 days it was not required to be
considered. He further submits that the petitioner did not take interest

thereafter, as he did not appear in the matter subsequently. However, he submits that, in fact, the petitioner appeared on 21.12.2009 itself but he did not file the objection within 30 days which will be evident from the order dated 24.02.2010 as the same discloses that the petitioner has filed objection on that date.

Learned counsel for the petitioner submits that of course the petitioner appeared through his counsel on 21.12.2009 but the matter was kept again on 22.01.2010 and on 22.1.2010, he prayed for and was allowed time and the matter was directed to be put up on 30.01.2010. On 30.01.2010, he filed his objection itself but that has not been decided.

Per contra, learned counsel appearing for the State Bank of India submits that it would be apparent from the order dated 24.02.2010 that the objection was filed on that date.

However, in my considered opinion, there is no force in such submission made on behalf of the State Bank of India as the order itself discloses that the certificate debtor had filed the objection through his counsel prior to passing of such order. Now whether time was granted by the Certificate Officer on 22.01.2010 or not for filing such objection does not matter as the same was required to be considered by the Certificate Officer and pass necessary order on the objection filed by the petitioner. It does not appear from the entire

order sheet appended by the petitioner that his objection was examined and rejected on any ground whatsoever.

Thus, in my considered opinion, the subsequent proceeding and issuance of distress warrant would not be sustainable in the eye of law as the Certificate Officer was required to pass necessary order under Section 10 of the Act on its own merit and in accordance with law.

As a result, this application is being disposed of with a direction to the Certificate Officer to dispose of the objection filed by the petitioner on its own merit and, in accordance with law within a period of one month from the date of receipt/production of a copy of this order, if the same has already not been disposed of. Till such decision, the distress warrant shall remain stayed. However, in case, he has already disposed of the objection of the petitioner then he will proceed further accordingly.

(Dr. Ravi Ranjan, J)

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