

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15955 of 2015

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Ranjan Kumar, son of Sobhakant Yadav, resident of Village- Purvi Tola,
Police Station- Saur Bazar, District- Saharsa, Proprietor of Laxmi Rice Mill,
Singheshwar, District- Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Managing Director, The Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Path, Patna.
4. The Deputy Chief (Claim), The Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Path, Patna.
5. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Madhepura.
6. The Area Manager, Food Corporation of India, District Officer, Madhepura.
7. The District Certificate Officer, Madhepura.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shekhar Kumar Singh, Advocate
For the Respondent/s : Mr. Prashant Pratap, GP-6
Mr. Asit Kumar Jha, A.C. to G.P.-6
For the B.S.F.C. : Mr. Ram Shankar Pradhan, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 15-10-2015 Heard Mr. Shekhar Kumar Singh, learned counsel for the petitioner, learned counsel for the State and Mr. R.S. Pradhan, learned senior counsel appearing for the Bihar State Food and Civil Supplies Corporation and its functionaries.

Although the petitioner has endeavoured to question the entire proceedings arising from Certificate Case No. 15 of 2014-15 pending before the District Certificate Officer, Madhepura



along with the distress warrant issued against the petitioner on 09.5.2015 for recovery of the certificate amount but in the nature of the order which this Court proposes to pass, it would not require to delve into the merits of the certificate proceedings at this stage.

Facts are in a narrow compass. As per the agreement entered in between the petitioner and the Corporation, the petitioner was to make supply of certain amount of custom milled rice in return of the paddy so supplied by the Corporation at its various centers. On the alleged failure of the petitioner to make supply of the custom milled rice that the certificate proceeding in question giving rise to Certificate Case No. 15 of 2014-15 was initiated in the light of Clause 15 of the agreement. The petitioner being aggrieved took shelter before the Arbitrator in terms of Clause 16 of the agreement who is the District Collector, Madhepura and in the arbitration proceedings the claim of the petitioner was not upheld and he was directed to make payment. The petitioner has filed an appeal under the provisions of Arbitration and Conciliation Act, 1996 and with reference thereto it is the stand of the petitioner that during the pendency of the arbitration appeal, the certificate proceedings cannot proceed. Mr. Singh has also referred to an order of this Court passed in Criminal Misc. No. 33927 of 2015 passed in the anticipatory bail



application so filed on behalf of petitioner whereunder this Court has granted 15 months time to deposit 20 per cent of the alleged amount which order was passed on 14.8.2015. He thus submits that in view of the order passed by this Court, there was no occasion for issuance of a distress warrant. He further justifies the non-response of the petitioner to the certificate proceedings on grounds that FIR has been instituted against him and submits that the petitioner would cooperate in disposal of the Certificate Case.

The argument of Mr. Singh has been contested by Mr. Pradhan to submit that the petitioner is bound to respond in certificate proceedings but he was avoiding to do so.

I have heard learned counsel for the parties and I have perused the records. The parties are bound by the agreement and Clause 15 of the agreement present at Annexure-1 entitles the Corporation to take recourse to the remedy under the Bihar and Orissa Public Demand Recovery Act, 1914 for recovery of its dues. It is in this background that the certificate case has been instituted. The petitioner did invoke the arbitration remedy so available under Clause 16 of the agreement and which was dismissed. Although an appeal has been filed by the petitioner but considering that the stipulation present at Clause-16 attaches finality to the decision of the District Collector as an Arbitrator, I

would not be commenting on the merits of the appeal.

Be that as it may, the fact remains that the certificate proceedings has been initiated and the petitioner has also responded by filing a Section 9 objection. The only thing is that he evaded to attend the proceedings and which has necessitated the issuance of the distress warrant on 09.5.2015.

Having heard learned counsel for the parties and considering the stage of the proceedings as well as taking note of the order passed by this Court in anticipatory bail application filed by the petitioner arising from Criminal Misc. No. 33927 of 2015 as well as the submission of the petitioner to respond to the Certificate Case, in my opinion, there is no necessity to allow the continuance of the distress warrant issued under the order dated 09.5.2015 by the District Certificate Officer presently. This Court thus without interfering with the certificate proceeding would quash the order dated 09.5.2015 to the extent the District Certificate Officer, Madhepura has issued distress warrant against the petitioner for recovery of the amount but while doing so would direct the petitioner to respond to the notice and appear before the District Certificate Officer, Madhepura on or before 02.11.2015 with a clear stipulation that in case the petitioner does not appear before the District Certificate Officer on or before 02.11.2015, the

District Certificate Officer shall be at liberty to proceed in the matter ex parte, dispose of the same and take all steps for recovery of the dues.

Should the petitioner appear as per the directions aforementioned, the District Certificate Officer, Madhepura shall dispose of the certificate proceedings in accordance with law in consideration of the objection filed by the petitioner and after opportunity of hearing to the petitioner and the Certificate holder.

S.Sb/-

(Jyoti Saran, J)

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