

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14366 of 2009

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M/S Dahlan Food Products Pvt. Ltd. at Shivpuri, P.S. Saharsa, Distt. Saharsa through its Managing Director, Ratan Kumar Dahlan

.... Petitioner/s

Versus

1. The Bihar State Financial Corporation, Fraser Road, Patna Through Its Managing Director

2. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna

3. The Branch Manager, Bihar State Financial Corporation, Saharsa / Purnea

4. Deputy Manager I/C (Zone-II) Bihar State Financial Corporation, Fraser Road, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manik Vedsen, Advocate
Mr. Subhash Chandra Bose, Advocate

For the Respondent/s : Mr. Partha Sarthy. Advocate
Mr.Avinash Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 09-03-2015

Heard the parties.

2. The petitioner is aggrieved by the communication dated 20.08.2009 issued under the signature of the respondent no.4, as contained in Annexure-14 to the writ petition, whereby further demand of Rs.2,35,708.50 has been raised for settlement of account of the petitioner under OTS Scheme, 2004.

3. Learned counsel for the petitioner submits that the respondent Corporation by letter dated 02.05.1997.had sanctioned a term loan of Rs.10.60 lacs for giving financial assistance to the petitioner. However, only first installment of Rs.3,64,000.00 was released and subsequent installments were not released by the respondent Corporation. It is the case of the petitioner that under the OTS Scheme, 2004 he has paid the entire outstanding dues of the respondent Corporation. Therefore, according to the learned counsel for the petitioner, impugned communication dated



20.08.2009 (Annexure-14) raising further demand of Rs.2,35,708.50 is not sustainable. In support of the aforesaid contention, specific averments have been made in paragraphs 18 and 19 of the writ petition. Learned counsel has further pointed out that the averments made in those two paragraphs have not been controverted by the respondents though a counter affidavit on behalf of the respondent nos. 1 to 4 as also a supplementary counter affidavit on their behalf have been filed.

4. Learned counsel appearing on behalf of the respondents has opposed the prayer made in the present writ petition by placing reliance on the averments made in the counter affidavit as also the supplementary counter affidavit filed on behalf of the respondent nos. 1 to 4. According to him, the petitioner defaulted in making payment of outstanding dues of the respondent Corporation and even privilege given under the OTS Scheme was not fully availed of by the writ petitioner by making payment of entire outstanding dues. Therefore, according to him, the impugned communication cannot be legally faulted. However, he has fairly conceded that the averments made in paragraphs 18 and 19 of the writ petition have not been controverted by the respondents.

5. After having heard the parties and taking into consideration the factual matrix of the case, this Court is of the opinion that the entire matter is required to be re-examined and re-decided by the respondent Managing Director of the respondent Corporation. The claim of the petitioner that he has paid the entire outstanding dues of the Corporation is also required to be examined by looking into the relevant records of the petitioner as also the respondent Corporation. The claim of the petitioner that he has paid the entire amount pursuant to settlement order under

OTS Scheme, 2004 is also required to be gone into afresh as there appears to be some controversy between the claim of the petitioner vis-à-vis the claim of the respondents.

6. For the reasons recorded above, the impugned communication dated 20.08.2009 (Annexure-14) issued under the signature of the respondent no.4 is hereby set aside and quashed and the matter is remitted back with a direction to the respondent no.2 to decide the entire issue afresh after looking into the records of the petitioner vis-à-vis of the Corporation.

7. The petitioner is directed to appear before the respondent no.2 with a certified copy of the present order within a period of three weeks from today. He shall be at liberty to place all the materials/documents before the respondent no.2 with respect to his claim raised in the present proceeding. Thereafter, the respondent no.2 shall pass appropriate fresh order within a maximum period of three months from the date of appearance of the petitioner.

8. It is clarified that this Court has not gone into the merits of the claims raised either on behalf of the petitioner or on behalf of the respondents and this is left to be decided afresh by the respondent no.2 after looking into the relevant records/materials of both sides.

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

(Birendra Prasad Verma, J)

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