

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4342 of 2013

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M/S Braham Bricks Nirman Company Through Its Proprietor Rajesh Kumar Singh S/O Sri Ganesh Dutt Singh R/O Vijay Nagar, Bariarpur, P.S.- Bariarpur, District- Munger

.... Petitioner

Versus

1. The Assistant Provident Fund Commissioner Sub Regional Office, Adampur Chowk, P.S.- Bhagalpur, District- Bhagalpur
2. The Recovery Officer Sub Regional Office, Adampur Chowk, P.S.- Bhagalpur, District- Bhagalpur
3. The Enforcement Officer, Sub Regional Office Adampur Chowk, P.S.- Bhagalpur, District- Bhagalpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pankaj Maijorwar

For the Respondent/s : Mr. Amrendra Narayan Rai

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 17-07-2015 Heard learned counsel for the petitioner and Sri Prashant Sinha, learned counsel for all the respondents.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 31-01-2008 passed by the Assistant Provident Fund Commissioner/Respondent no. 1 by which an assessment under Section 7-A of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act') has been done and a direction was given to the petitioner i.e. M/s Braham Bricks Nirman Company to pay Rs. 1,28,240/- as well as Rs. 33,617/- as interest under Section 7-Q of the Act.



Learned counsel for the petitioner submits that since there were certain apparent error in the order, the petitioner subsequently filed a modification petition, vide Annexure – 4 to the writ petition. Despite filing of the modification petition, no order has been passed and now steps are being taken to recover the amount. On aforesaid ground, it has been prayed for setting aside the order of the respondent no. 1.

Sri Prashant Sinha, learned counsel for respondents has opposed the prayer of the petitioner. Firstly, he submits that order was passed under Section 7-A of the Act in the year 2008 itself. The petitioner was represented through his advocate and after hearing in detail, the order was passed. Since order passed under Section 7-A of the Act was not implemented, subsequently recovery proceeding was initiated and notice was issued to the petitioner, vide Annexure – 3 to the writ petition in the year 2010 itself. Thereafter, the petitioner, in the garb of invoking jurisdiction of review, filed a petition for modification of the earlier order. He submits that such petition was not statutory petition and as such, there was no requirement for passing any order on it.

Keeping in view the fact that order under Section 7-A of the Act was passed after hearing the parties and giving full

opportunity, prima facie, the Court does not find any defect in the impugned order. Moreover, the order was passed in the year 2008 and thereafter, recovery proceeding has already been initiated, in that view of the matter, I do not find any ground to interfere with the matter.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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