

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1951 of 2014

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Smt. Sushila Singh @ Sushila Sinha W/o Lt. Baidhya Nath Singh,
Maitrideep, Shantipuri, Station Road, Motihari, East Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Co - Operative Society, Patna
2. The District Magistrate -cum- Liquidators, Bihar State Housing Co-Operative Federation Ltd. Lalit Bhawan, Bailey Road, Patna
3. Assistant Liquidator Bihar State Housing Co - Operative Federation Ltd. Lalit Bhawan, Bailey Road, Patna
4. The Registrar, Co - Operative Society New Secretariat, Patna
5. Secretary, Belwanawa Sahakari, Girhi Nirman Sahyog Samiti, Motihari

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Rakesh Kumar Singh, Advocate
For the Respondent/s : Mr. Anil Kumar, GP-23

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 04-11-2015 Heard Mr. Rakesh Kumar Singh, learned counsel

appearing on behalf of the petitioner and Mr. Lalan Kumar,

Assisting Counsel to GP-23.

The petitioner is aggrieved by the notice dated 07.12.2012 issued by the Assistant Liquidator, Bihar State Housing Cooperative Federation Ltd, impugned at Annexure-5 as well as the notice dated 16.4.2013 impugned at Annexure-8 whereunder the petitioner has been directed by the Assistant Liquidator to deposit a sum of Rs. 2,28,801.24 which is stated to be the dues found outstanding against the petitioner in respect of the loan obtained by the petitioner from the Bihar State Housing



Cooperative Federation Limited since under liquidation. The petitioner endeavours to question the notices *inter alia* on grounds that there is a calculation mistake made by the Liquidator in arriving at the quantum of demand since according to the petitioner she has already discharged her liability.

A counter affidavit has been filed on behalf of the Liquidator and while questioning the maintainability of the writ petition, the calculation in the orders impugned, have been confirmed.

I have heard learned counsel for the parties and I have perused the records. The Registrar in exercise of powers vested under Section 42 of the Bihar Cooperative Societies Act (hereinafter referred to as the 'Act') can order for winding up of a society on the circumstances so discussed. The society in question is the Bihar State Housing Cooperative Federation Limited, Patna. It is in consequence of the order passed under Section 42 that the Registrar has been vested with powers under Section 44 to appoint a Liquidator to carry out the liquidation process. The powers vested in the Liquidator so appointed by the Registrar stands discussed in Section 44(3) of the Act and Section 44(5) of the Act vests liberty in the person aggrieved to appeal against an order of the Liquidator passed under Section 44(3) (b), (c), (d), (e), (g) or

(h) after obtaining special sanction of the Registrar, to be filed before the District Judge within three months of the order. Sub-section (6) of Section 44 attaches finality to the order passed by the District Judge.

The proceedings so initiated by the Liquidator against the petitioner is fully covered under the provision of Section 44(3)(b) of 'the Act' as it is relatable to determination and realization of the dues outstanding against the petitioner. There is thus no error in the jurisdiction exercised by the Liquidator and in the circumstances any challenge to the validity of the order can only be made before the forum so provided under Section 44(5) of 'the Act'. In view of the statutory remedy of appeal so provided to the petitioner, the issue raised by the petitioner by way of the writ petition would not require indulgence at the present stage. This Court is conscious that the period of limitation provided under Section 44(5) of the 'Act' for preferring a statutory appeal against the order of the Liquidator has expired during the pendency of the writ petition.

In the circumstances, this writ petition is disposed of leaving it open for the petitioner, if so advised, to question the order of the Liquidator as impugned at Annexure-5 and 8 of the writ petition before the District Judge after obtaining special

sanction from the Registrar as provided under Section 44(5) of the 'Act' and it goes without saying that any such process initiated by the petitioner within four weeks from today if accompanied with the petition for condonation of delay shall be considered by the Registrar as well as the appellate authority and be disposed of in accordance with law on its own merits bearing in mind that the petitioner was pursuing her remedy before this Court.

The writ petition is disposed of.

(Jyoti Saran, J)

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