

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.936 of 2015

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Sunil Das son of late Bisho Das, resident of village Abhaipur (Mahe), P.S. Piri Bazar, District Lakhisarai.

.... Petitioner/s

Versus

1.The State of Bihar.
2.The District Magistrate, Lakhisarai.
3.The Certificate Officer, Lakhisarai.
4.The Block Development Officer, Surajgarha Block, P.S. Surajgarha, District Lakhisarai.
5. The Panchayat Secretary, Gram Panchayat Kaswa, P.S. Surajgarha, District Lakhisarai.
6.The Mukhiya, Gram Panchayat Kaswa, P.S. Surajgarha, District Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv

For the Respondent/s : Mr. Sandeep Kumar (GA8)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 22-01-2015 Heard learned counsel for the parties as with

regard to the following prayer made in this writ

application:-

“for quashing the order dated 24.8.2013 passed by Certificate Officer, Lakhisarai the respondent no. 3 in case No. 9/11-12, whereby and whereunder, the learned certificate Officer, Lakhisarai without taking care of service of notice to the petitioner under Section 7 of the Bihar and Orissa Public Demand Recovery Act (herein after referred to as P.D.R. Act’) directed for issuance of warrant of arrest against the petitioner.”

This Court on perusal of the entire ordersheet of certificate proceeding produced by the petitioner showing its initiation on 19.08.2011 followed by dates



of 12.03.2012, 24.08.2013, 13.09.2013 and 27.09.2013 before warrant of arrest being issued on 10.02.2014 against the petitioner prima facie satisfies that such order for issuance of warrant of arrest was issued against the petitioner even without ensuring service of notice under Section-7 of the Bihar Public Demand Recovery Act on him.

Learned counsel for the State, however, has tried to make out a case that it does not appear to be possible that the certificate case was not placed before the Certificate Officer for a period of over 17 months in between 12.03.2012 to 24.08.2013 and that the certified copy of the ordersheet produced by the petitioner probably may not be the true copy of the entire ordersheet of the certificate case.

This Court will have no difficulty in rejecting such submission of learned counsel for the State for a simple reason that even the column of the dates mentioned on the certified copy recording the order



dated 12.03.2012, 24.08.2013, 13.09.2013 and 27.09.2013 is as per the orders recorded in the ordersheet after initiation of the case on 19.08.2011. In fact in the case of the petitioner himself on an earlier occasion, this Court in the order of this Court dated 16.07.2014 passed in C.W.J.C No. 11917 of 2014 had found similar discrepancy as with regard to the same Certificate Officer.

Thus, for the reasons indicated above, this writ application is allowed and the order of the Certificate Officer dated 24.08.2013, as with regard to the issuance of warrant of arrest against the petitioner in Certificate Case No. 9M/2011-12 is hereby quashed and the matter is remitted back to the Certificate Officer to afford liberty to the petitioner to file objection under Section-9 of the Bihar Public Demand Recovery Act and pass his order under Section 10 of the Act before taking any coercive step against the petitioner. This Court would, accordingly also direct the petitioner to appear before

Certificate Officer on or before 19th of February, 2015
alongwith a copy of this order and also file objection
within a period of two weeks from the date of his
appearance after perusal of the necessary
documents/records of the concerned certificate case.

With the aforementioned observation and
direction, this application is disposed of.

(Mihir Kumar Jha, J)

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