

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4677 of 2013

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Ram Prasad Sah, S/O Late Bauaji Sah, Resident of Village- Pudarghat, Post-Sripurgahar, P.S- Khanpur, District- Samastipur.

... Petitioner/s

Versus

1. The State Of Bihar through the Special Secretary, Department of Mines and Minerals, Government of Bihar, Patna.
2. The Managing Director of Bhoomi Vikas Bank, Budhmarg, Patna.
3. The Certificate Officer of Land Development Branch Kalyanpur, District-Samastipur.
4. The Branch Manager of Land Development Bank, Kalyanpur, Branch District-Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Helal Ahmad
For the Respondent-State	:	Ms. Meera Singh, AC to AAG-13
For Department of Mines	:	Mr. Rajendra Prasad
For the Respondent-Bank	:	Mr. Girijanand Prasad

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-04-2016

Heard the parties.

The petitioner has questioned the notice issued under section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as 'the Act') whereby he has been directed to show cause as to why a sum of Rs.3,88,754.75P be not recovered from him as well as the notice dated 28.4.2012 whereby he has been directed to show cause as to why a sum of Rs.8,16,897/- be not recovered from him. The notices are impugned at Annexures 1 and 2 respectively.

The facts are not in dispute rather are admitted. The petitioner is a loanee from the Bank having obtained a sum of



Rs.2,00,000/- for operating a brick kiln way back in the year 1997 but has defaulted in repayment thereof. The non-refund of the loan so taken in 1997 had led to institution of a certificate case bearing Certificate Case No.195 of 2005-06 which was subsequently withdrawn in the expectation of refund. It is thereafter that the certificate case in question has been instituted on the requisition of the Bank giving rise to Certificate Case No.19 of 2010-11 for recovery of a sum of Rs.8,16,897/- and a notice was issued for deposit thereof which has led to filing of this writ petition.

A counter affidavit has been filed on behalf of the Bank supporting the impugned action. It is stated that notice under section 7 of 'the Act' was issued on 6.3.2011 but no objection has been filed by the petitioner under section 9 of 'the Act' rather he has moved this Court in the present writ petition.

Mr. Girijanand Prasad, learned counsel appearing for the Bank informs that the certificate case remains pending by virtue of the pendency of the writ petition.

A copy of the counter affidavit was served on the counsel for the petitioner on 25.4.2016 and on request of the petitioner the matter was passed over and thereafter this matter has been taken up today and when another prayer for pass over has been made which is rejected.

Having considered the issue involved in the present writ

petition I am not persuaded to grant indulgence to the issue raised for the reason that a certificate case having been initiated against the petitioner for recovery of a loan he is duty bound to respond to the notice before the Certificate Officer and cannot avoid the same. The fact that a loan of Rs.2,00,000/- had been obtained by the petitioner along with his father and brother for operating a brick kiln is not in dispute and thus the petitioner is under an obligation to refund the same. Whatever be the reason to object to the proceedings the petitioner would be well advised to put up in written form before the Certificate Officer under the provisions of section-9 of 'the Act' but in the circumstances discussed I am not persuaded to grant indulgence to the issue raised.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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