

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16051 of 2015

=====

1. Sheo Narain Ram Bari son of late Bilas Rawat Bari Resident of village-
Bhitbharwa, P.S. Gopalganj, District- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. District Certificate Officer, Gopalganj
3. Uttar Bihar Gramin Bank, Main Branch, Gopalganj through its Branch
Manager

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma
Mr. Natraj Verma

For State Respondents : Mr. Vijay Kumar Verma, A.C. to G.A.2

For respondent No.3 : Mr. Prabhakar Jha

=====

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 08-09-2016 Heard learned counsel for the petitioner and learned
counsels for the State and for the Uttar Bihar Gramin Bank.

The petitioner seeks quashing of the entire proceedings
of Certificate Case No.52 of 2009-10 pending before the District
Certificate Officer, Gopalganj.

A requisition was filed by respondent No.3, Uttar Bihar
Gramin Bank, Main Branch, Gopalganj with regard to recovery of
certain amounts due under a term loan and cash credit limit to the
petitioner's Mill. The requisition was sent by respondent No.3 for
realization of an amount of Rs. 6,28,278/- under the Public
Demand Recovery Act. On the basis of the said requisition, the
certificate was signed by the Certificate Officer which was
registered as Certificate Case No. 52 of 2009-10 and notice was



issued to the petitioner. The petitioner filed his objection on 30.09.2009 taking the ground that the said case was not maintainable on account of the requisition as also the certificate both being defective but the said issue not being decided, the petitioner has approached this Court.

Learned counsel for the petitioner submits that it is apparent from a perusal of the requisition and also the certificate that all necessary particulars which are required have not been mentioned either in the requisition or in the certificate and thus the same is not in accordance with law and fit to be quashed in view of a catena of decisions of this Court which has also been considered by this Court recently in the case of M/s. Vishnu Sugar Mills Ltd vs. The State of Bihar and others and its analogous cases: 2015 (1) PLJR 863. He also relies upon another decision of this Court rendered on 18.04.2014 in the case of Anwar Hussain and others vs. The State of Bihar and others: C.W.J.C. No.16750 of 2007.

In the aforesaid decision, it has been clearly laid down that both the requisition and the certificate must be complete in all respects and failure to do so would result in the certificate proceedings being held to be without jurisdiction and liable to be quashed.

In the present case from a perusal of the requisition, it

appears that there is no proper requisition made to the Certificate Officer as required under Form No.2, requisition for certificate, nor the verification is to be found therein. In the same manner in the certificate also column No.5 providing for further particulars of the Public Demand, for which the certificate is signed, is not enumerated except to state that it is under Section 4 of the Bihar and Orissa Public Demand Recovery Act, 1914. The further certification as required in Form No.1 is also absent and the details are not at all mentioned therein.

In the aforesaid circumstances, the present matter is squarely covered by the aforesaid two decisions of this Court which decisions themselves follow a long line of decisions.

The writ application is, accordingly, allowed and the entire proceedings of Certificate Case No. 52 of 2009-10 are held to be without jurisdiction and accordingly the certificate proceedings and the order passed therein are quashed. The respondent-Bank, however, shall have liberty to initiate fresh proceedings in accordance with law.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

U			
---	--	--	--