

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5349 of 2014

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SURESH PANDEY S/O ANIRUDH PANDEY RESIDENT OF VILLAGE -
KORAWAN, P.S. HILSA, DISTRICT - NALANDA

.... PETITIONER

VERSUS

1. THE STATE OF BIHAR THROUGH THE COLLECTOR, NALANDA AT BIHAR SHARIF
2. THE SUB - DIVISIONAL OFFICER - CUM - THE CERTIFICATE OFFICER, HILSA, DISTRICT - NALANDA
3. THE STATE BANK OF INDIA, HILSA BRANCH, HILSA, DISTRICT - NALANDA THROUGH ITS BRANCH MANAGER
4. THE BRANCH MANAGER, THE STATE BANK OF INDIA, HILSA BRANCH, HILSA, DISTRICT - NALANDA

.... RESPONDENTS

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Appearance :

For the Petitioner	:	Mr. SANJEEV KUMAR, ADVOCATE. Mr. SHYAMAL PRAKASH, ADVOCATE.
For the Respondents:		Mrs. NUTAN SAHAY, AC TO GA 5
For the Bank	:	Mr. KAUSHALENDRA KR. SINHA, ADVOCATE Mr. SUNIL KUMAR SINGH, ADVOCATE

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-01-2016

Heard learned counsel for the petitioner, learned A.C.
to GA 5 for the State, and learned counsel for the respondent
Bank.

2. This writ petition has been filed for quashing the
order dated 08.01.2014 and subsequent notice dated 05.02.2014
issued by the Sub-divisional Officer-cum- Certificate Officer, Hilsa,
District Nalanda in Certificate Case No. 22 of 2007-08 and for
connected reliefs.



3. It is submitted on behalf of the petitioner that the certificate proceeding is wholly illegal and unsustainable in law. It is stated that the mandatory notice under Section 7 of the Bihar & Orissa Public Demands Recovery Act (for short, "the Act") has not been served upon the petitioner. A specific statement to that effect has been made in paragraph 15 of the writ petition and in support of the same, a certified copy of the order sheet (Annexure-2 series) has also been enclosed.

4. A counter affidavit has been filed on behalf of the respondent State, but however, the aforesaid averment of the petitioner as made in paragraph 15 has not been controverted.

5. This Court is of the view that in absence of notice under Section 7 of the Act having not been shown to have been served on the petitioner, the Certificate Officer was not justified in taking further action in the Certificate proceeding.

6. In the above view of the matter, the proceedings of Certificate Case No. 22 of 2007-08 are hereby set aside and the matter is remitted to the Certificate Officer with a direction to serve the requisite notice under Section 7 of the Act upon the petitioner expeditiously and thereafter to proceed in the matter in accordance with law.

7. It is made clear that until service of notice under Section 7 of the Act as aforesaid, the Sub-divisional Officer-cum-Certificate Officer, Hilsa, District Nalanda shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 22 of 2007-08.

8. The writ petition stands disposed of.

(Vikash Jain, J)

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