

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7188 of 2016

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Anil Kumar Son of Late Krishna Singh, resident of village- Bishunpura,
P.S.- Bihta, Distt.- Patna, Proprietor of M/s Sai Rice Mill, Bihta, Patna

.... Petitioner/s

Versus

1. The State of Bihar, through the Collector, Madhubani
2. The District Certificate Officer, Madhubani
3. The District Manager, Bihar State Food and Civil Supply Corporation
Ltd., Madhubani

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. Shyam Kishore Sharma, GA-1
Ms. Shalini Raut, A.C. to GA-1
For the B.S.F.C. : Mr. Prabhat Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 24-06-2016 Heard Mr. Dhananjaya Nath Tiwari, counsel for the

petitioner, counsel for the State and Mr. Prabhat Kumar Singh

appearing for the Corporation.

The petitioner has questioned the proceedings arising
from Certificate Case No. 12 of 2013-14 pending before the
District Certificate Officer, Madhubani for recovery of an amount
of Rs. 94,58,609/- stated to be the balance price of the custom
milled rice required to be supplied by the petitioner.

Although the writ petition was filed relying upon a
Bench decision of this Court rendered in the case of **Sone Vailley
Rice Mill vs. The State of Bihar & Ors.** reported in **2014(3)**



PLJR 819 but during the pendency of the writ petition the L.P.A. preferred by the Corporation to question the Bench decision has since been allowed by the Division Bench vide judgment and order dated 20.5.2016 and thus the foundation for the writ petition now stands removed.

Faced with the situation, Mr. Tiwari submits that the notice issued under Section 7 has not been received by the petitioner and without adjudicating the case on merits and disposal of the matter under Section 10 of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as 'the Act') that bailable warrant of arrest has been issued on 10.10.2015. It is advancing such arguments that a prayer has been made by Mr. Tiwari to enable the petitioner to file his objection under Section 9 of 'the Act' which would be filed without any unnecessary delay but until such time that the matter is disposed of, the petitioner may be granted protection against the bailable warrant of arrest issued against him.

Counsel for the Corporation invites the attention of this Court to the order dated 20.9.2015 / 21.9.2015 recorded in the certificate proceedings to submit that although counsel for the petitioner has argued that the notice has not been served but its service stands recorded in the order sheet itself.



Be that as it may, having heard learned counsel for the parties and considering the status of the matter, I would direct the District Certificate Officer, Madhubani to hand over the copy of the notice issued under Section 7 of 'the Act' together with the requisition filed under Section 5 as well as the certificate issued under Section 4 of 'the Act' to the petitioner by 30.6.2016 and whereupon the petitioner would file his objection to the demand on or before 18.07.2016.

The District Certificate Officer shall thereupon dispose of the matter after hearing the parties in accordance with law by a speaking order. Should the petitioner default in filing his objection by 18.7.2016 upon receipt of the notice requisition and certificate on 30.6.2016 and fails to cooperate in the proceedings, the District Certificate Officer, Madhubani shall be at liberty to dispose of the proceedings *ex parte* but by a speaking order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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