

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8973 of 2016

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Raj Kumar Singh, son of Late Mahabir Singh, Resident of village- Mahrath, P.O-
Bajitpur, P.S. Kashichak, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Nawada.
2. The District Magistrate, Nawada, District- Nawada
3. The District Certificate Officer, Nawada, District- Nawada.
4. Madhya Bihar Gramin Bank, Nawada through the Chairman.
5. The Branch Manager, Madhya Bihar Gramin Bank, Kashi Chak Branch,
District- Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar -Manglam
For the Respondent/s : Mr. Prasoon Sinha, G.A.-2
Mr. Prabhat Kumar, A.C. to G.A.-2
For the Bank : Mr. Suresh Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-07-2016

Heard Mr. S.B.K. Manglam, learned counsel for the
petitioner, Mr. Prabhat Kumar, learned A.C. to G.A.-2 for the State
and Mr. Suresh Prasad Singh, learned counsel for the Bank.

The parties have been heard on the issues raised with a view
to final disposal at the present stage itself.

The petitioner while questioning the entire proceeding
arising from certificate case no.13 of 2015-16 pending before the
respondent no.3, the District Certificate Officer, Nawada has also
questioned the order dated 28.3.2016 whereby warrant have been
issued on the failure of the petitioner to file any schedule of the
payment.



Mr. Manglam, learned counsel for the petitioner has referred to the ordersheet in the certificate proceedings present at Annexure-2 to submit that even when the District Certificate Officer has taken note of the offer made by the petitioner regarding deposit in installment and even before the District Certificate Officer has tested the demand on its validity also even before the petitioner would file his objection under section-9 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as 'the Act') that a warrant has been issued.

Mr. Suresh Prasad Singh, learned counsel appearing for the Bank submits that although notice under Section-7 of 'the Act' was issued on as back as 13.7.2015 and the petitioner registered his appearance the very next day i.e. on 14.7.2015, but he has not filed his objection on pretext of documents prayed. It is submitted that the demand raised is a matter of record and is to the knowledge of the petitioner, for filing of objection in the certificate proceedings which has been initiated on default of the petitioner to repay the tractor loan.

Having heard learned counsel for the parties and considering the status of the certificate proceedings, while this Court appreciates the anxiety of Mr. Singh, learned counsel appearing for the Bank regarding delayed action of the petitioner in filing his objection



under section-9 of 'the Act' but there is nothing on record of the proceedings which reflects that any such direction was given by the District Certificate Officer requiring the petitioner to file his objection under section-9 of 'the Act' and on default he would proceed to issue a warrant. On the contrary while the order passed on 22.2.2016 records the prayer of the petitioner as also his willingness to repay the tractor loan but the very next order passed, is for issuance of warrant.

In the circumstances discussed the order of issuance of warrant cannot be upheld and is accordingly set aside. Since the petitioner has been given sufficient time for filing his objection he shall appear before the District Certificate Officer on 25.7.2016 at 11.00 AM together with his objection, if not already filed, failing which the District Certificate Officer shall proceed to dispose of the matter without waiting for the same but in the manner mandated under section-10 of 'the Act'.

The writ petition is accordingly disposed of.

(Jyoti Saran, J)

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