

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22366 of 2012

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1. Chandradeo Yadav S/O Nasib Yadav Resident Of Village:- Saguni, Post Office:-
Rejatpur, Police Station:- Esipur Barahat, District- Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Bhagalpur
3. The District Certificate Officer, Bhagalpur
4. The Branch Manager, U.C.O. Bank, Tilka Manjhi, Bhagalpur
5. The Regional Manager U.C.O. Bank Tilka Manjhi, Bhagalpur
6. The Zonal Manager U.C.O. Bank, Kolkata

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Prakritita Sharma, Advocate.

For the Respondent/s : Mr. Ranjeet Kumar Pandey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 06-12-2016

Heard Ms. Prakritita Sharma counsel for the petitioner
and Mr. Pandey for the respondent U.C.O Bank (for short ‘the
Bank’).

Counter affidavit(s) have been filed by the respondents.
Reply thereto is filed by the petitioner.

The petitioner is the loanee of the respondent Bank. He
claims that such loan was advanced to him under a scheme of the
Government. The respondent-Bank, having found that the petitioner
defaulted in repayment of the loan, filed requisition for initiation of a
Certificate proceeding against the petitioner for realization of the dues
of the respondent- Bank which gave rise to Certificate case no. 129 of
2011-12. The Certificate Officer issued notice to the petitioner under
Section 7 of the Bihar and Orissa Public Demands and Recovery Act,
1914 (for short ‘the PDR Act’). Without availing the statutory remedy



of filing the objection under Section 9 of the PDR Act, the present application has been filed questioning the jurisdiction of the authority to issue notice on the ground that the loan was sanctioned under a Governmental scheme, and as such, even if there is any contemplation in the agreement or there is any document furnished by the loanee to be bound by the provisions of the PDR Act, the present proceeding would not be maintainable as these terms will always be subject to the relevant Scheme of the Government. In this connection, she has highlighted that if the loan obtained by the petitioner under the Scheme is waived by the Government under a policy decision then the petitioner would not be liable to pay. As the petitioner defaulted in filing the objection in spite of service of notice, the Certificate Officer initiated coercive step(s) against the petitioner and issued warrant of arrest. The same has also been challenged in the present case.

The counsel for the respondent –Bank, per contra, referring to Annexure A/1 submits that the bond was furnished on behalf of the loanee wherein the loanee has subjected himself to the proceeding under the PDR Act, if the respondent Bank ever decided to proceed thereunder. He also states that instead of filing objection raising all issues of facts and law, the petitioner has directly moved this Court. Mr. Pandey further submits on the basis of the statements in paragraph nos. 12 and 13 of the counter affidavit of the respondent nos. 4 to 6 that the petitioner is not entitled to waiver of the loan.



Be that as it may, considering the facts and circumstances of the case, in the considered opinion of the Court the petitioner should respond to the notice issued under Section 7 of the PDR Act and file objection raising all issues of fact and law for consideration/adjudication by the Certificate Officer in accordance with law. It appears that the respondents have issued warrant of arrest against the petitioner as he defaulted in responding to the notice and filing objection.

Considering the particular facts of the case as also considering the ends of justice, this Court would permit the petitioner to file an objection raising all issues before the Certificate Officer within 03 weeks whereafter the same shall be considered and disposed of in accordance with law. Until filing of the objection by the petitioner, the execution of the warrant of arrest, if any, issued by the authority in connection with Certificate Case No. 129 of 2011-12 shall remain stayed.

(Kishore Kumar Mandal, J)

Shyam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.12.2016
Transmission Date	N/A

