

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.349 of 2013

In

Civil Writ Jurisdiction Case No. 7425 of 2013

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1. M/s Sri Hanuman Sugar & Industries Limited having its registered office at Chandra Kunj 3, Pretoria Street, 4th Floor, Kolkata-700071 through its Vice President Ajay Kumar Kabra.
 2. B.K. Nopani, Son of Late M.L. Nopani, Chairman of M/s Eastern Sugar & Industries Limited, having its head office at 12 Government Place East, 2nd Floor, Kolkata.
 3. M/s Eastern Sugar & Industries Limited, Unit: Motihari Chinni Udyog, situated at & P.O.-Motihari, District-East Champaran having its head office at 12 Government Place East, 2nd Floor, Kolkata through its Authorized signatory Chandan Kumar Garodia son of Late Onkar Mal Garodia. Petitioners

Versus

1. Regional Provident Fund Commissioner, Patna
 2. The Regional Provident Fund Commissioner, Sub-Regional office-Cum-Recover officer, Employees Provident Fund Organization, Muzaffarpur.
 3. The State of Bihar through Principal Secretary, Government of Bihar, Patna
 4. The Cane Commissioner, Sugarcane Department, Government of Bihar, Patna
 5. The I.G. Registration, Government of Bihar, Patna.
 6. The District Magistrate, East Champaran, Motihari.
 7. The Sub-Registrar, East Champaran, Motihari.
 8. The Cane office, East Champaran, Motihari. Respondents
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Appearance :

For the Petitioner/s : Mr. Y. V. Giri, Sr. Advocate
Mr. Vikas Ratan Bharti. Advocate

For the Respondent/s : Mr. Gautam Bose, AAG-8
Mr. Rohit Mishra, AC to AAG-8

For the Provident Fund : Mr. R. S. Pradhan, Sr. Advocate
Mr. Jainendra Pradhan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

11 27-04-2016

Heard learned counsel for the petitioners, learned counsel appearing for the Provident Fund and the State.

2. The instant application has been filed for review of the order dated 05.08.2013, passed in C.W.J.C. No. 7425 of 2013. The petitioner no.1 is a company registered under the Companies

Act and holds Sugar factory. Petitioner no.2 is share holder as well as Chairman of both petitioner nos. 1 and 3.

3. The writ application was filed with the following prayers:

“(a). The petitioners seek direction to respondent nos. 1 and 2 not to fasten the liability of Employees Provident Fund and Miscellaneous Provisions Act against petitioner no.2, the Chairman of the petitioner nos.1 and3, as well as for quashing of Warrant of Arrest issued under Section 8 B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as „E.P.F. Act, 1952”). Prayer has also been made for fixation of easy instalments for clearing Provident Fund dues.

(b) They further seek directions to the respondents to register the sale deeds as contained in Annexure-7 and 7/A and also to quash the order dated 18.02.2013 contained in Memo no.741 dated 19.02.2013 passed by District Magistrate, East Champaran, Motihari (Annexure-15), by which he has declined to approve permission for registration of sale deeds contained in Annexure-7 and 7/A.”

4. In course of hearing of the writ application, I.A.

No. 3576 of 2013 has been filed for amendment of relief, seeking quashing of the order, dated 18.04.2013, passed by the Recovery

Officer, Employee Provident Fund Organization, Sub-Regional Office, Muzaffarpur, contained in Annexure-20 of the writ application.

5. After hearing Mr. Pradhan, learned senior counsel appearing for the Provident Fund as well as for the other respondents, the writ application was disposed of with certain directions. Para 63 and 65 of the order, which is relevant in the context is reproduced herein below again for easy reference:

“63. As I have observed earlier, a land-holder cannot transfer any land if there is restrain order from the Court, Tribunal or appropriate authority under the relevant Acts or Rules restraining either auctioning, attaching, or restraining the land-holder from disposing the land. Similarly, a District Magistrate can refuse permission if he / she is satisfied that the petitioners are selling land in excess of land that they individually or jointly would be entitled to hold as per their Ceiling Area, otherwise not.

65. The Recovery Officer has already attached the property of the establishment / employer. As necessary steps have already been taken for recovery of arrears of Provident Fund dues by issuing an order of attachment, I find it appropriate to quash the order of warrant of arrest issued earlier, in changed circumstances. However, in case, the Recovery Officer is not

able to recover its dues from the attachment and sale of movable and immovable property of the establishment, it would be open to take resort to the other measures including issuance of Warrant of Arrest of the employer under the E.P.F. Act. It would be open for the petitioners to take objections that Provident Fund liability of petitioner nos. 1 and 3 cannot be fastened on Chairman under the E.P.F. & Miscellaneous Provisions Act, 1952.”

6. The review application has been filed on the ground that the order under review has been passed without considering the relevant materials and relevant provisions of law.

7. I have considered the rival submissions of the parties and also perused the materials on record and do not find any error on the face of the record of the case to call any interference. If the petitioners are aggrieved with the decision on merit, it remains open for them to take resort to remedy available under the law.

8. With the observation aforesaid, this application stands disposed of.

(Samarendra Pratap Singh, J.)

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