

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 13303 of 2012

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Bhushan Prasad, son of Sri Vishwanath Prasad, resident of Road No. 39,
Raghunath Tola, P.O.- Anisabad, P.S.- Gardanibagh, District- Patna

..... Petitioner

Versus

1. The Union of India through the Secretary Communication and I.T., New Delhi
2. The Administrative Officer-cum-Station Engineer, Prasar Bharti,
Broadcasting Corporation of India, All India Radio, Patna, P.S.- Gandhi
Maidan, District- Patna
3. The Regional General Manager, State Bank of India (Local Head Office),
Gandhi Maidan, Bihar, Patna, P.S.- Gandhi Maidan, Distt.- Patna
4. The Chief Manager (Engineering), State Bank of India, Administrative Office,
2nd Floor, J.C. Road, Anta Ghat, Patna, P.S.-Pirbahore, Distt.- Patna
5. The Branch Manager, State Bank of India, Bailey Road Branch, Patna, P.S.-
Shastri Nagar, Distt.- Patna
6. The Branch Manager, State Bank of India, Fraser Road Branch, Patna, P.S.-
Kotwali, District- Patna

..... Respondents

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Appearance:

For the Petitioner	:	Mr. Devendra Prasad Singh, Adv. Mr. Shailendra Kumar, Adv.
For the Union of India:		Mr. Rakesh Kumar Sinha, CGC
For the Bank	:	Mr. Devendra Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-09-2016

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for a direction to
the respondent State Bank of India, Bailey Road Branch, Patna
(hereinafter “the SBI”) to permit the petitioner to operate his account
which is held up as a result of wrongful action of another person.

3. The short facts of the case are that the petitioner has
been maintaining his account vide Pass Book No. 11111253489 with



the SBI. It appears that three cheques issued by All India Radio, Patna were fraudulently deposited with modification of name, amount and issue date, in all aggregating to Rs. 2,62,800/-, into the petitioner's bank account by Raj Mohan Prasad, a junior class clerk of All India Radio, Patna. The account of the petitioner was accordingly placed on hold by the SBI pending investigation pursuant to an F.I.R. filed by the respondent no. 2 (Administrative Officer-cum-Station Engineer, Prasar Bharti, Broadcasting Corporation of India, All India Radio, Patna) in this behalf.

4. Learned counsel for the petitioner submits that the respondent SBI has arbitrarily placed the entire fund in the petitioner's account on hold. Even assuming that a fraudulent deposit was made into the account of the petitioner, the same has been done by the aforesaid Raj Mohan Prasad and not by the petitioner. It is therefore submitted that the petitioner ought to be permitted to withdraw the amount in excess of the total amount covered by the three cheques, as such excess represents the petitioner's own funds and are not subject matter of investigation.

5. Learned counsel for the SBI relies on the supplementary counter affidavit, *inter alia*, enclosing a copy of the statement of the petitioner's account showing a closing balance of Rs. 10,09,806.84 as on 25.06.2016. It has been accepted in para-6 of the counter affidavit that the amount said to have been defrauded from the All India Radio

and credited to the account of the petitioner and for which the petitioner's account had been placed on hold, is Rs. 2,62,800/- and no particular reason has been assigned for placing the entire fund in the petitioner's account on hold.

6. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the submission of learned counsel for the petitioner. If the aggregate of the three cheques which had been fraudulently withdrawn from All India Radio and deposited into the petitioner's account amounted to Rs. 2,62,800/-, there appears little justification to prevent the petitioner from accessing his own deposits over and beyond the alleged fraudulent deposits. The closing balance in the Account as on 25.06.2016 admittedly far exceeds the amount of the three cheques.

7. In the interest of justice therefore, this Court directs the SBI to enforce the hold placed on the petitioner's account limited only to the extent of Rs. 2,62,800/- (being the aggregate value of the three cheques) said to have been fraudulently withdrawn from the All India Radio and deposited into the petitioner's account, together with the interest at the applicable rate which may have accrued in the account from the respective dates of deposit of the three cheques. A calculation in this regard shall be supplied to the petitioner and any excess remaining over and above the aforesaid amounts shall be permitted to be withdrawn by the petitioner. Such exercise shall be completed by

the respondent SBI within a period of two weeks from the date of receipt/production of a copy of this judgment.

8. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/ NAFR	AFR
CAV DATE	N.A.
Uploading Date	04.10.2016
Transmission Date	N.A.