

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10740 of 2014

in

C.R. 94 of 2012

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Uma Kinkar Sahai son of late Chandradhari Prasad resident of New Colony Saharsa
P.S. & Dist. Saharsa.

.... Petitioner/s

Versus

1. The Branch Manager Punjab National Bank. Dharamshala Road Saharsa P.S.
District Saharsa.
2. The Collector Saharsa P.S. & District Saharsa.
3. The District Certificate Officer Collector Premises, Saharsa P.S. & Dist.
Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 18-08-2016

Heard learned counsel for the petitioner.

The present application has been filed assailing the order dated 4.2.2012 passed by the 1st Additional District Judge, Saharsa in Misc. Appeal No. 16 of 2006 whereby the Appeal has been dismissed affirming the order of Sub-Judge 1st, Saharsa passed in T.S. No. 69 of 2004 dismissing the prayer for injunction.

The plaintiff had filed the suit in the year 2004 for setting aside the certificate proceeding initiated at the instance of the respondent Bank against the plaintiff for realization of the due amount of loan taken by the plaintiff for purchasing a Colour T.V.

From the impugned order passed by the Appellate Court below,



it transpires that the plaintiff had earlier approached this Court by filling C.W.J.C. No. 4390 of 2000. The said writ application was however, disposed of with direction to the Certificate Officer to dispose of the objection of the plaintiff in accordance with law. After the rejection of the objection by the Certificate Officer, the plaintiff again approached this Court by filing C.W.J.C. No. 9387 of 2002 which was allowed to be withdrawn on the prayer of the plaintiff with direction to approach the Bank for compromise. It further transpires that, thereafter, the plaintiff filed a case before the permanent Lok Adalat but after the appearance of the defendant, the plaintiff withdrew the case from the said Lok Adalat. The suit thereafter has been filed by the plaintiff for the aforesaid relief. During the pendency of the suit the plaintiff filed a petition praying to stay the further proceedings of the certificate case. The petition for injunction was rejected by the Trial Court by order dated 2.11.2004. The certified copy of the said order has been produced before this Court Today by the learned counsel for the petitioner.

From perusal of the said order it transpires that the learned court below did not find prima facie case in favour of the plaintiff and on that basis rejected the prayer of the plaintiff for injunction. Thereafter, Miscellaneous Appeal No. 16 of 2006 was filed before the Appellate Court below. By the impugned order, learned appellate

court below has affirmed the order of the trial Court and dismissed the appeal.

Learned counsel for the petitioner has submitted that the plaintiff petitioner is a very old person and he has also no property out of which the certificate dues can be realized. It has further been submitted that in any view of the matter, a direction be issued to the Court below to dispose of the suit in accordance with law as early as possible.

In view of the submissions and considering the averments as also on perusal of the order of both the courts below, it is evident that both the Courts below have concurrently found no prima facie case in favour of the plaintiff for grant of injunction. From perusal of the impugned order, the conduct of the plaintiff-petitioner is also evincible that he had twice approached this Court earlier but no relief against the certificate proceedings was granted and then he had filed a case before the Lok Adalat but after appearance of defendant Bank he withdrew his case and finally has approached the civil court.

In this backdrop, this court does not find perversity or unreasonableness in the impugned order, and therefore is not inclined to interfere in the impugned order in exercise of jurisdiction under Article 227 of the Constitution of India.

The application is accordingly, dismissed. However, in the facts

and circumstances of the case, the learned Court below is directed to take up the hearing of the suit expeditiously and dispose it of preferably, within a period of six months from the date of receipt/production of a copy of this order. The trial Court is further directed not to grant any unnecessary adjournments to any party and ensure the disposal of the suit within the time framed.

(V. Nath, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.09.2016
Transmission Date	