

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4481 of 2012

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Arun Kumar Singh Son of Late Ram Udit Singh Resident of Village: Begampur,
P.O. & P.S.:Nalanda, District:Nalanda

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The Collector, Nalanda at Biharsharif
4. The Additional Collector (Settlement), Nalanda at Biharsharif
5. The Additional Collector, Special Programme-Cum-District Certificate Officer,
Nalanda at Biharsharif
6. The District Fisheries Officer-cum-Chief Executive Officer, Nalanda at
Biharsharif.
7. The Circle Officer, Noorsarai, District:Nalanda

.... Respondents

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Appearance :

For the Petitioner : Mr. BHANU PRATAP SINGH, ADVOCATE

Mr. AMAR NATH SINGH, ADVOCATE

For the State : Mr. UDAI SHANKAR SINGH AC TO GA2

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-06-2016

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

2. The present writ petition has been filed for setting
aside/quashing the warrant of attachment of the petitioner's property
for realization of decretal/certificate amount of Rs. 6,97,000/- issued
by the District Certificate Officer, Nalanda (Respondent No. 5) in
Certificate Case No. 01/08-09 vide order dated 29.07.2011, without
affording any opportunity to the petitioner.

3. Learned counsel for the petitioner raises a short issue that



the impugned action of the District Certificate Officer, Nalanda is wholly arbitrary and contrary to law as the impugned action for realization of Rs. 6,97,000/- has been taken in absence of a valid certificate proceeding, for which service of a notice under Section 7 of the Bihar and Orissa Public Demands Recovery Act (for short “the PDR Act”) was a pre-requisite. A specific statement has been made by the petitioner in para 18 of the writ petition to the effect that prior to the impugned warrant dated 29.07.2011, the petitioner had not received any notice from the respondents and had no knowledge about the certificate proceeding having been initiated.

4. Learned counsel for the respondents relies on para 22 of the counter affidavit to submit that such notice was served on the petitioner as is evident from the warrant.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the submission of learned counsel for the petitioner. The specific stand of the petitioner about non-service of any notice prior to the warrant of attachment has not been appropriately denied except for the vague statement made in para 22 of the counter affidavit. The respondents have also not enclosed any details of the notice under Section 7 of the P.D.R. Act, if issued and served upon the petitioner

6. In the above view of the matter, this Court finds a clear violation of statutory procedure in the impugned action taken by the

respondents. The impugned warrant dated 29.07.2011 is accordingly set aside. The certificate officer shall, however, be at liberty to take fresh steps in accordance with law before proceeding further in the matter for realization of the dues from the petitioner.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	11.07.2016
Transmission Date	-