

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4170 of 2017

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Arun Kumar Rathi son of Late Narsingh Das Rathi, resident of Gurhatta,
Hammam Road, PS-Khajekalan, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector cum District Magistrate cum Appellate Authority, Vaishali.
2. The Certificate Officer, PS-Vaishali, District Vaishali.
3. The Electric Executive Engineer (Commercial and Revenue), Muzaffarpur Division, PS-Muzaffarpur Town, District-Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan and Chandan Kumar

For the Respondent/s : Mr. Rajiv Roy- GP 1
Mr. Suresh Kumar AC to GP 1

For the N.B.P.D.Com. Ltd. : M/s Anand Ojha and Ashok Karn

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 11-04-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the limited issue has been raised that the Managing Director or any shareholder cannot be proceeded under the Bihar and Orissa Public Demands Recovery Act when the outstanding dues of the electricity bill is lying against the Company.

It is an undisputed fact that the power has been taken by M/s Shyam Thermoforming Private Limited Company and Arun Kumar Rathi (petitioner) is the Managing Director of its Company. As the Company could not pay the outstanding dues of electricity bill of Rs. 9,93,194/-, a proceeding under the P.D.R.



Act, has been initiated against the petitioner instead of the Company.

The counsel for the petitioner submits that the Managing Director and the shareholder are quite different to the Company as it has separate existence, which has been created under the Companies Act, 1956. The Managing Director or any shareholder cannot be proceeded under Bihar and Orissa Public Demands Recovery Act, when the payment has not been made by the Company. In support of his submission, he has placed reliance on judgment reported in 2002 (2) PLJR 553 (Kanhaiya Lal vs. State of Bihar) where under the same circumstance, the Court has held that the Managing Director and the shareholder of the Company cannot be held liable if any outstanding dues is against the Company.

In such view of the matter, the order passed in Certificate Case No. 15/10-11 is quashed. However, the Power Distribution Company is at liberty to recover the amount from the Company.

Accordingly, this petition is allowed.

(Shivaji Pandey, J)

Mahesh/-

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