

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11433 of 2013

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Gauri Shankar Singh S/O Late Rajeswari Prasad Singh R/O Village + P.O.-
Dhan Raj Tola, Baraihia, P.S.- Baraihia, District- Lakhisarai.

.... Petitioner/s

Versus

1. The District Magistrate, Munger
2. The Certificate Officer, Munger.
3. The Syndicate Bank, Munger through Branch Manager.
4. The Branch Manager, Syndicate Bank, Munger.
5. The Officer In Charge, P.S.- Baraihia, District- Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Viswajeet Kumar Mishra, Adv.
For the Respondent/s : Mr. Rajan, AC to GA -11
Mr. Sanjiv Kumar, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 06-10-2017 Heard learned counsel for the petitioner and
learned counsel for the Bank.

In the present writ application, the petitioner seeks quashing of Certificate Case No. 29/2009-10 which has been initiated against him illegally, even though, he is neither the borrower nor the guarantor but happens to be the father of the deceased-loanee, who is but a Class- II heir.

Learned counsel for the petitioner submits that the entire proceeding is bad in law on account of the fact that the petitioner was never noticed by the bank for repayment of the dues. It is further submitted that the loan taken by his son late Ranjan Singh to the tune of Rs. 5,00000/- (five



lakhs) from the Syndicate Bank, Munger Branch, could not be saddled on his shoulder, as he is not Class – I heir but falling in the category of Class –II heir under the Indian Succession Act. He further submits that if at all any recovery was to be made, it could be done only through due processes of law and by following proper recovery procedure which has not been taken by the bank. However, contrary to all settled principles of law, the petitioner is being proceeded against under the provisions of Public Demand Recovery Act. He further submits that though the petitioner answered the notice issued under the Public Demand Recovery Act, it was not taken notice of and the grounds raised therein have been ignored and warrant of arrest was issued and upheld by the Certificate Officer contrary to the provisions of law. He, thus, prays for quashing the entire certificate case bearing Certificate Case No. 29/2009-10 initiated against the petitioner in the Court of Certificate Officer at Munger.

Learned counsel appearing on behalf of the Syndicate Bank submits that the petitioner being the natural guardian and legal heir of the deceased loanee, who had taken loan from the bank to the tune of Rs. 5,00000/- (five lakhs) is wholly liable to repay the same especially in view



of his undertaking given to the bank after the death of his son. It is further submitted that the respondent-Bank had to take recourse to the proceedings under the Public Demand Recovery Act, as public money had to be recovered through the processes of law and could not be allowed to drift after the death of the deceased loanee.

Having heard learned counsel for the petitioner, State and also the respondent-Bank, it appears that the proceeding which has been initiated against the father of the deceased-loanee is wholly irregular. In the further considered opinion of this Court, it is strange as to how and why the respondent –Bank did not take any action for ascertaining the true legal heirs before proceeding against the father of the deceased-loanee. The Certificate Officer also does not seem to have applied his mind as he has failed to notice that the petitioner is but a Class –II heir as per the Indian Succession Act. It is, thus, evident that the proceeding which has been initiated is wholly against the settled principles of law and the provisions as contained under the Public Demand Recovery Act. The proceedings bearing Certificate Case No. 29/2009-10 is, thus, quashed. However, it shall be open to the respondent-Bank to take



appropriate steps for recovery of the loan after ensuring strict compliance of the provisions of law.

Accordingly, the writ application stands allowed.

(Anjana Mishra, J)

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