

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3441 of 2016

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M/s Siwani Mini Rice Mill Patna City through its Proprietor Randhir Kumar
Son of Sri Indradeo Singh, Resident of Village Sonawa, P.s Didarganj, District
Patna.

.... Petitioner

Versus

1. The State of Bihar
2. The Bihar State Food & Civil Supplies Corporation Ltd. through its Managing
Director, Patna.
3. The District Manager, Bihar State Food & Civil Supplies Corporation Limited,
Patna.
4. The Certificate Officer-cum-Executive Magistrate, Patna City .
5. The District Collector, Patna.
6. The Station House Officer, Didarganj Police Station District Patna.

.... Respondents

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Appearance:

For the Petitioner	:	Mr. Alok Kumar Sinha, Sr. Advocate Mr. Bhola Kumar Mr. Ashish Sinha, Advocates
For the BSFC	:	Mr. Shialendra Kumar Singh, Advocate
For the State	:	Mr. D.K. Prasad, GP 14

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-02-2018

I.A. No. 2116 of 2016 has been filed for staying the operation
of order dated 23.01.2016 passed by the Certificate Officer-cum-
Executive Magistrate, Patna City (respondent no. 4), contained in
Annexure-4 whereby body warrant against the petitioner has been
issued and the matter was listed under the heading " For Orders on
petition". However, with the consent of the parties, the writ petition
itself is taken up for disposal on merits.

2. The present writ petition has been filed for the following



reliefs:-

- (i) For issuance of a writ in the nature of certiorari quashing the notice dated 15.12.2015 issued by the Certificate Officer-cum-Executive Magistrate, Patna City in Certificate Case No. 61/2014-15 (Annexure-2).
- (ii) For setting aside the order dated 23.01.2016 passed by the respondent no. 4 in Certificate Case No. 61/2014-15 contained in Annexure-4.
- (iii) For passing any other relief/s, direction/s which your Lordships deem fit and proper in the facts and circumstances of the case.

3. Learned Senior Counsel Mr. Alok Kumar Sinha appearing on behalf of the petitioner submits that without having taken recourse to Clause 16 of the agreement entered into between the parties (Annexure-1) which provides for settlement of dispute on mutual discussion and on its failure by reference to Arbitrator, the respondents have initiated certificate proceedings against the petitioner.

4. Learned counsel for the respondents-BSFC Mr. Shailendra Kumar Singh on the other hand submits that no fault can be found with the action of the respondents inasmuch as the amount of dues recoverable from the petitioner were not paid and if the same were disputed the petitioner ought to have approached the respondents for mutual discussion and thereafter, in the event of failure, invoked arbitration in terms of Clause



16 of the agreement. As far as the respondents are concerned, they have acted well within their rights by initiating certificate proceedings for recovery of the amount of dues from the petitioner.

5. This Court is in agreement with the submissions of learned counsel for the respondents. The petitioner does not appear to have raised any objection before the respondents nor requested for mutual discussion for settling the dispute, much less invoked the arbitration.

6. In the above view of the matter, this Court is not inclined to interfere in the matter. It is however, admitted by both sides that the petitioner has not filed any objection petition under Section 9 of the Public Demands Recovery Act (for short 'the PDR Act') before the Certificate Officer, Patna City denying his liability against the amount sought to be recovered.

7. In the interest of justice, therefore, this Court grants liberty to the petitioner to approach the Certificate Officer, Patna City with an objection petition under Section 9 of the PDR Act within a period of two weeks' from today. If any such petition is filed within the stipulated period, the same shall be considered and disposed of in accordance with law. The order dated 23.01.2016 passed by the Certificate Officer, Patna City for issuance of warrant of arrest against the petitioner shall remain in abeyance upon filing of the petition under Section 9 of the PDR Act by the petitioner, until its disposal.

8. Needless to say, the respondents shall be at liberty to recover the amounts due from the petitioner in the event that the petition under Section 9 of the PDR Act is not filed within the stipulated period.



9. The writ petition stands disposed of with the aforesaid observation.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2018
Transmission Date	NA

