

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11225 of 2015

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Digambar Mishra son of Late Jageshwar Mishra (Prop.- M/s Mithila Stores),
resident of Village- Marar, P.S.- Rahika, District- Madhubani.

.... Petitioner

Versus

1. The State of Bihar through the D.M. Madhubani.
2. The Allahabad Bank through its Chairman cum-Managing Director, Head Office 2, Netaji Subhash Marg, Kolkatta.
3. The Authorised Officer, Zonal Manager Office, Allahabad Bank, 1st Floor, Om Shanti Complex, Opposite of Zila School, Main Road Muzaffarpur.
4. The Branch Manager, Allahabad Bank, Madhubani Branch, Bata Chowk, Madhubani.
5. The Certificate Officer, Madhubani.
6. Sri Upendra Pathak S/o Late Ram Prasad Pathak
7. Sri Amrendar Pathak S/o Late Laxmi Kant Pathak Both are resident of Village-Marar, P.S.- Rahika, District- Madhubani

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Adv
For the Bank : Mr. Rajan Ghoshrave, Adv
For the State : Mr. Priyadarshi Matri Sharan, AC to AAG 15

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-11-2018

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the respondent-Bank.

2. The present writ petition has been filed for quashing the notice dated 07.04.2015 issued by the Certificate Officer, Madhubani, whereby and whereunder a certificate proceeding bearing Certificate Case No. 94/2014-2015 has been initiated against the petitioner/certificate debtor under Section 7 of the Bihar & Orissa Public Demands recovery Act (for short, "the Act") for recovery of a sum of Rs. 10,58,226/- due to the Allahabad Bank,



Madhubani/Certificate holder; and for connected reliefs.

3. It is submitted on behalf of the petitioner that the entire proceedings in Certificate Case No. 94/2014-2015 against the petitioner in terms of Section 7 of the Act for recovery of the dues amounting to Rs. 10,58,226/- are wholly illegal and liable to be quashed.

4. Learned counsel for the respondents submit that the petitioner does not appear to have filed any petition under Section 9 of the Act denying his liability, and as such there is no illegality in the action of the respondents.

5. With the consent of parties, the present writ petition is disposed of granting liberty to the petitioner to file his petition under Section 9 of the Act within a period of three weeks from today, which, if done, shall be disposed of by the Certificate Officer on its own merits within a further period of four weeks thereafter in accordance with law and in terms of Section 10 of the said Act.

6. It is made clear that until disposal of such petition, if filed, the Certificate Officer, Madhubani shall refrain from resorting to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 94/2014-2015.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.11.2018
Transmission Date	NA

