

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14877 of 2013

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Gore Lal Yadav Son Of Sri Bhu Deo Yadav R/O Village- Thali, P.S.- Govindpur,
District- Nawada

.... Petitioner/s

Versus

1. The State Of Bihar Through The Director, Mining, Patna
2. The Assistant Director, Mining, Nawada
3. The Certificate Officer (Mining) Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. KRISHNA KANT SINGH

For the Respondent/s : Mr. VISHWA MOHAN KUMAR SINHA

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-08-2018

The present writ petition has been filed for quashing the certificate of demand issued under Section 6 of the Bihar and Orissa Public Demands Recovery Act (for short 'the PDR Act) whereby a certificate for Rs. 1,49,760/- was issued; to quash the warrant of attachment issued vide memo no. 1369 dated 20.12.2012 whereby the attachment order has been issued; and further to stay the further proceedings in the instant case.

2. Learned counsel for the petitioner submits that the Certificate Case has been instituted and the warrant of attachment has been issued against the petitioner in a completely arbitrary manner and without following the procedure prescribed under the PDR Act. A



specific stand has been taken in paragraphs 5, 6 and 7 in the writ petition that neither any notice was served upon the petitioner nor any demand notice was served prior to the impugned action. On the other hand, the petitioner had come to know about the warrant of attachment and filed his objection petition on 16.03.2013 (Annexure-3) which however also remains pending. It is stated that the stand of the petitioner has not been controverted in the counter affidavit filed on behalf of the respondents.

3. None appears on behalf of the respondents when the matter is called today.

4. Having heard learned counsel for the petitioner and on consideration of the materials on record, this Court is of the view that the impugned action cannot be sustained in absence of statutory notice under Section 7 of the PDR Act having been served upon the petitioner and without grant of an opportunity of hearing in the matter, which is clearly in violation of natural justice.

5. In the above circumstances, the writ petition is disposed of with a direction to the Certificate Officer (Mining) (respondent no. 3) to consider and dispose of the petitioner's objection petition dated 16.03.2013 (Annexure-3) after grant of opportunity of hearing to the petitioner in accordance with law.



6. In the meantime and until disposal of the objection petition, further proceedings in Certificate Case No. 07/2011-12 shall remain stayed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2018
Transmission Date	NA

