

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3541 of 2018

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1. Daroga Sharma, S/o Late Tuntun Sharma,
2. Rajendra Mistri, S/o Late Kardhani Mistri, Both residents of Village - Kataiya,
P.O.- Jaigovind Nagar, P.S.- Jamhor, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Aurangabad.
2. The District Certificate Officer, Aurangabad.
3. The Branch Manager, Madhya Bihar Gramin Bank, Siris Branch, Barun,
District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha

For the Respondent/s : Mr. CHITTRANJAN SINHA- PAAG2

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-05-2018

The present writ petition has been filed for quashing the Certificate Notices 30.1.2017 (Annexure 1 and 1/A) issued to the petitioners by the District Certificate Officer, Aurangabad (respondent no. 2) in case No. 1/17-18 issued under Section 7 of the Bihar & Orissa Public Demand Recovery Act, 1914, (for short 'the PDR Act') by which the petitioners have been noticed to pay the sum of Rs. 9,11,480/- within 30 days against the loan of Madhya Bihar Gramin Bank, Siris Branch, Barun, District Aurangabad; and for connected reliefs.

2. Learned counsel for the petitioners submits that the instant recovery proceeding is wholly illegal and arbitrary as the mandatory provisions of the PDR Act have not been followed. A specific stand has been taken in para 11 of the writ petition that the prescribed notice under Section 7 of the PDR Act was not accompanied with a copy of the certificate which is mandatory requirement of Section 7 of the said Act.

3. A counter affidavit has been filed on behalf of the respondent-State, but the specific stand of the petitioner has not been controverted.



4. Learned counsel for the respondent-Bank appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court is of the view that the mandatory provisions prescribed under the PDR Act must be meticulously followed to maintain a recovery proceeding of the instant nature. The petitioner's stand that a copy of the certificate was not attached with the notice under Section 7 of the PDR Act has not been denied and hence it must be held that the recovery proceedings cannot be continued. The recovery proceeding in Certificate Case No. 1/17-18 is accordingly quashed with liberty to the District Certificate Officer, Aurangabad (Respondent No. 2) to issue fresh notice under Section 7 of the Act to the petitioners together with a copy of the certificate in accordance with law.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.05.2018
Transmission Date	NA

