

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3644 of 2018

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Dilip Prasad Yadav, S/o Late Daroga Rai, Resident of Village- Patnuka, P.O.-
Budhnagar, P.S.- Nanpur, District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar at Patna.
2. The Principal Secretary, Revenue Department, Govt. of Bihar at Patna.
3. The Commissioner, Division Muzaffarpur, District- Muzaffarpur.
4. The Collector, District- Sitamarhi.
5. The District Certificate Officer, District- Sitamarhi.
6. The Branch Manager, State Bank of India, ADB, Sitamarhi, Janki Palace
Complex, Main Road, Sitamarhi, District- Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Saghir Ahmad, Advocate.

For the Respondents : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-03-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

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

*(i) For issuance of an appropriate writ/order/direction
including the writ in the nature of certiorari to quashing the
impugned order dated 06.07.2017 as contained in Annexure-
1 and 05.01.2018 passed by respondent no. 5 i.e. the District
Certificate officer, District-Sitamarhi passed in Certificate
Case No. 44 of 2015-16 by which he issued body warrant
against the petitioner without serving the notices issued
under Section 7 of the Bihar and Orissa Public Demand
Recovery Act, 1914 as well as also without following the due*



process of law as provided in the Act.

(ii) For issuance of an appropriate writ/order/direction including the writ in the nature of mandamus to commanding and directing the respondent no. 5 to first release the petitioner forthwith, who has been apprehended by the police on 19.01.2018 and put behind the bars for he failed to discharge his alleged debts due to the Bank in question, although he is merely a legal representative of the loany and always ready to return the amount in accordance with law.

(iii) For grant of other relief(s) for which the petitioner deemed entitled into the facts and circumstances of the case.”

3. It is submitted on behalf of the petitioner that the entire proceedings in Certificate Case No. 44 of 2015-16 against the petitioner in terms of Section 7 of the Bihar & Orissa Public Demands recovery Act (For short, “the Act”) for recovery of the dues amounting to Rs.5,42,110/- are wholly illegal and liable to be quashed.

4. The immediate concern of the petitioner in this case is that a body warrant of arrest has been issued against him in connection with the dues amounting to Rs. 5,42,110/- recoverable in terms of the notice dated 04.08.2015 issued by the District Certificate Officer, Sitamarhi in Certificate Case No. 44 of 2015-16.

5. Learned counsel for the respondent-Corporation submits 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.

6. Be that as it may, 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.

7. It is made clear that until disposal of such petition, if filed, the District Certificate Officer, Sitamarhi shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 44 of 2015-16.

8. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.04.2018
Transmission Date	N.A.

