

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3369 of 2018

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Bhuwnesh Prasad @ Bhuwnesh Prasad Barnwal, Son of Ganesh Lal Barnwal,
resident of Village- Gairki, P.S.- Jokihar, District- Araria.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Araria.
2. The District Magistrate, Araria, District- Araria.
3. The District Cooperative Officer, Araria, District- Araria.
4. The Sub-Divisional Officer, Araria, District- Araria.
5. The Block Supply Officer, Jokihat, District- Araria.

... Respondents

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Appearance :

For the Petitioner : Ms. Anita Kumari, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-05-2018

I.A. No. 3237 of 2018

This interlocutory application has been filed for amendment of the writ petition by adding two prayers as enumerated in para-5 (A) and (B) as follows –

“(A) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the entire proceedings of Certificate Case No. 04 of 2016-17 and the orders passed therein against the petitioner on the ground that if the alleged recovery is not caused by any of the provisions as contemplated under Schedule-1 of the Public Demand Recovery Act, 1914, the demand is not a public demand and, therefore, no recoverable under the Public Demand Recovery Act, 1914 through a certificate proceeding.

(B) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 20.02.2018 and all the previous orders from 15.03.2017 to 19.01.2018



whereby and whereunder different orders were passed by the Certificate Officer against the petitioner on the ground that if the petitioner had already filed his objection under Section 9 of the Public Demand Recovery Act, 1914 the learned Certificate Officer was not justified to proceed further in the matter before disposal of the objection filed by the petitioner”.

2. Learned counsel for the State appears and states that there is no objection to the prayer of the petitioner.

3. Having regard to the nature of the prayer, the interlocutory application is allowed and the petitioner is permitted to make necessary amendment in the writ petition in course of the day.

C.W.J.C. No. 3369 of 2018

4. As prayed, learned counsel for the petitioner is also permitted to implead the Certificate Officer, Araria as respondent no. 6 in the array of parties in course of the day.

5. The main writ petition has been filed for the following reliefs --

“(i) For issuance of an appropriate writ in the nature of Certiorari for quashing the notice dated 08.12.2017 in Case No. 04 of 2016-17 issued under the signature of the Respondent no. 3 and contained in his memo no. 794 dated 08.12.2017, whereby and whereunder while issuing a notice to the petitioner under Section 9 of the Public Demand Recovery Act, 1914 (hereinafter referred to as P.D.R. Act), the petitioner has been directed for deposit of the certificate



amount by 15.12.2017 failing which the attachment order/body warrant be issued.

(ii) For a declaration that if before 08.12.2017 and after service of notice under Section 7 of the P.D.R. Act, the petitioner had already filed his objection under Section 9 of the P.D.R. Act, the Respondent no.3 has no jurisdiction to issue the impugned notice until and unless the objection of the petitioner filed under Section 9 of the P.D.R. Act is decided and since the Respondent No. 3 has issued the impugned notice without disposal of the objection filed by the petitioner, the said notice issued by the Respondent no. 3 is illegal and cannot be sustained in the eye of law.

(iii) For issuance of any other writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case."

6. Learned counsel for the petitioner submits that pursuant to the notice under Section 7 of the P.D.R. Act in Certificate Case No. 04 of 2016-17, the petitioner filed his objection under Section 9 of the P.D.R. Act denying his liability. Without however disposing of the same, warrant of arrest has been directed to be issued against him in connection with the dues shown in the notice under Section 7 of the Act at Rs. 5,36,241.37.

7. Learned counsel for the petitioner invites attention to the certified copy of the entire order sheet of the Certificate Officer in



support of his contention.

8. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed so far.

9. 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.

10. It is made clear that until disposal of such petition, if filed, the Certificate Officer, Araria shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 04 of 2016-17.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17. 05.2018
Transmission Date	N.A.

