

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2464 of 2019

1. Chandra Mohan Kumar Pathak, age 37 Years, Male, son of Late Ramakant Pathak R/o Vill-Itarhi, P.O and P.S- Itarhi, Distt- Buxar.
2. Ravindra Pathak, age 32 years, Male, son of Late Bhuneshwar Pathak, R/o Vill-Itarhi, P.O and P.S- Itarhi, Distt- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief secretary, Government of Bihar, Patna.
2. The Principal secretary, Industry Department, Government of Bihar Patna.
3. The Director, Food Processing Directorate Department Government of Bihar, Patna.
4. The District Magistrate, Buxar.
5. The Deputy Development Commissioner, Buxar.
6. The Additional Collector cum Certificate Officer, Buxar.
7. The Managing Director, Bihar State Financial Corporation Fraser Road, Patna.
8. Sri Dinanath Choudhary, age 62 Yrs, Male, S/O Not Known, R/o-Vill and P.O- Dewenka Barka Gaon, P.S-Sikrowl, Distt- Buxar Promoter
9. Sri Badri Nath Mishra, age 64 Yrs, Male, S/o Not known R/O-Vill and P.O- Kanjarua P.S- Koransarai, Buxar, Promoter.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajiv Ranjan Kr. Pandey
For the Respondent/s : Mr.Rajiv Roy (Gp1)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 29-04-2019 Petitioners are aggrieved by the tender notice for sale of the mortgaged/ hypothecated assets issued under Section 29 and 30 of the State Financial Corporations Act, 1951. On perusal of Annexure '4' to the writ application, it appears that the concerned unit namely Yamunaji Rice Mill, Itarhi, Buxar is one of the units whose mortgaged asset has been put on auction



sale. It is not in dispute that the promoters of the unit are Shri Dinanath Choudhary, Dwenka Barka Gaon, Buxar and Shri Badri Nath Mishra, Koransaria, Buxar. So far as these petitioners are concerned, they claim themselves the co-sharers of the original landlords. They have brought on record a copy of the agreement dated 14.09.1994 as contained in Annexure '3' to the writ application. A statement has been made that when the members of the firm became old and they were unable to work hard to run the rice mill properly, they appointed the private respondent nos.8 and 9 (the promoters named in the tender notice) as promoter of the company with the knowledge of the consent of these promoters. It is submitted that prior to issuance of the tender notice, these petitioners were not served with any notice and only the name of private respondent nos.8 and 9 have been shown as promoters of the company. The petitioners claim that their fathers was one of the partners in the firm and had his share to the extent of 50% in the partnership firm.

After hearing learned counsel for the petitioners, this Court is of the considered opinion that the nature of disputes now being tried to be raised by filing the present writ application cannot be entertained in a writ jurisdiction under Article 226 of the Constitution of India. So far as the tender



notice is concerned, it has been issued in exercise of the statutory power conferred upon the Bihar State Financial Corporation under Section 29 of the State Financial Corporations Act, 1951. The inter se dispute between the petitioners on the one hand and respondent nos.8 and 9 on the other hand would not take away the mortgaged rights which were created in favour of the Bihar State Financial Corporation and which is not under challenge in the present writ application.

This writ application has, thus, no merit. It is dismissed, accordingly.

This Court has not gone into the rights of the petitioners vis-a-vis the private respondents.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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