

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.343 of 2018

In

Civil Writ Jurisdiction Case No.13892 of 2012

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Aminur Rashied Son of Late Haroon Rashid, Resident of Village-
Jhirnkhor, P.O.- Taiyabpur, P.S.- Pothia, District- Kishanganj.

... .. Petitioner-Appellant

Versus

1. The Branch Manager, Bhumi Vikash Bank, Kishanganj District-Kishanganj.
2. The District Manager-cum-Certificate Officer, Bhumi Vikash Bank, Kishanganj, District- Kishanganj.
3. The Branch Manager, Land Development Bank, Kishanganj, District-Kishanganj.
4. The District Certificate Officer, Kishanganj.
5. The State of Bihar.

... .. Respondents

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Appearance :

For the Appellant/s : Mr.Md. Imtiyaz Hussain
For the Respondent/s : Mr.Ajay Kr.Rastogi-AAG10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 08-05-2019

Challenge in this Letters Patent Appeal is to the judgment dated 07.02.2018 passed by the learned Single Judge in Civil Writ Jurisdiction Case No. 13892/2012. By the impugned judgment the learned Single Judge has refused to interfere with the proceeding of the Certificate Case No. 51/2011-12 and dismissed the writ application.



2. It appears that the writ application was preferred for issuance of a writ in the nature of *certiorari* to quash the entire Certificate Proceeding in Certificate Case No. 51/2011-12 in connection with which the petitioner was arrested and a sum of Rs. 2,42,883/- has been recovered from him. The petitioner also prayed for a direction to respondent nos. 2 & 3 to refund the amount recovered from him by putting him behind the bar and also to direct the respondents to pay a compensation of Rs. 10,00,000 for keeping him in illegal confinement.

3. The petitioner claimed that his father had obtained an agricultural loan of Rs. 27,956/- for which a certificate of Rs. 70,297.50 was issued giving rise to Certificate Case No. 48/2000-01 against father of the petitioner. The father of the petitioner is said to have deposited Rs. 2,00,005.50 against the certificate of Rs. 70,297.50. Later on father of the petitioner died on 08.01.2004 leaving behind his wife, five sons and two daughters. Another certificate of Rs. 1,89,409.00 was issued by respondent no. 2 against this petitioner for the recovery of the same loan amount of his father for the left out amount



of Certificate Case No. 48/2000-01. The fresh Certificate Case No. 281/2005-06 was initiated on 15.07.2005. The petitioner filed his objection under Section 9 of the Bihar Public Demand Recovery Act (hereinafter referred to as the “Bihar PDR Act”) on 24.09.2005 challenging the maintainability of the certificate proceeding beside other grounds. The said certificate case was dropped without any final order or decision by the Certificate Officer, as according to the petitioner, his objection remained in the certificate proceeding.

4. The respondent no. 2 is said to have again submitted a requisition of Rs. 5,18,351.50 giving rise to the Certificate Case No. 51/2011-12 on 15.04.2011 against the petitioner and his four brothers for recovery of loan amount taken by their father. On 09.08.2011 the petitioner claimed to have submitted an objection petition under Section 9 of the “Bihar PDR Act”. It is the grievance of the petitioner that respondent no. 2 without considering the objection petition dated 09.08.2011 rejected the same by order dated 30.11.2011 in violation of the provisions of Section 10 of the “Bihar PDR Act” and issued a bailable warrant against



the petitioner. The petitioner was arrested by police on 23.04.2012 and was sent to Jail. It is stated that the petitioner was forced to deposit the certificate amount and only thereafter he was released from Jail by order dated 26.04.2012.

5. From the counter affidavit of the respondent no. 5 which is available on the record, it appears that father of the petitioner had taken a Tractor loan of Rs. 2,00,000/- on 27.02.1999. The installment amount of loan payment was fixed at Rs. 63,954/- per annum. The loan was to be refunded in five years in five equal installments of Rs. 63,954/- by 31st January every year. The loanee could not maintain the credit of loan payment and he became defaulter. The details of some payments made during the period 24.05.2000 and 31.01.2003 has been given showing that a sum of Rs. 2,00,005.00 was deposited during this period.

6. It is further stated that for recovery of the loan amount certificate proceeding was started. The petitioner thereafter was arrested until he deposited the loan amount of Rs. 2,42,833.00 getting benefit of non-payment of Rs.



3,73,121.82 under the Golden Interest Waiver Loan Scheme and finally closing the loan account.

7. We find from the impugned judgment that the learned Single Judge has considered all the aforesaid aspects of the matter and finally came to a conclusion that the petitioner had failed to challenge the order dated 30.11.2011 at the relevant point of time when a bailable warrant of arrest issued against him. Thus, the petitioner was himself evading the proceeding and in that circumstance he was arrested.

8. Learned counsel for the appellant has once again submitted before us that the petitioner was only chosen among the five brothers and two sisters to pay the amount and he was put behind the bar without considering his objection under Section 9 of the “Bihar PDR Act”.

9. On perusal of the records we do find that at the relevant time the objection of the petitioner was rejected on 30.11.2011 without considering the same but instead of challenging the said order before an appropriate court/forum the petitioner kept on evading the proceeding. The learned Single has rightly recorded that there is no



material to show on the record that after issuance of bailable warrant of arrest the petitioner had appeared before the Certificate Officer to contest the matter. Now the petitioner has himself availed the benefit of Golden Interest Waiver Loan Scheme and after getting relief of a substantial amount of Rs. 3,73,121.82, he has already closed the account, in these circumstances we find no reason to interfere with the judgment of the learned Single Judge. No illegality or infirmity could be found with the same.

10. The Letters Patent Appeal is, thus, dismissed.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

Rajeev/-

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