

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15829 of 2019

Arvind Kumar Rai, (Male), aged about 44 years, Son of Late Bal Mukund Rai Resident of Village- Chilhari, P.S.- Dumraon, District- Buxar.

... .. Petitioner

Versus

1. The State of Bihar through its Collector, Buxar.
2. The Collector, Buxar.
3. The Addl. Collector-cum-Certificate Officer, Buxar.
4. The Land Acquisition Officer, Buxar.
5. Lilawati Devi Wife of Sri Raishi Muni Singh Resident of Village- Karahiya, P.S.- Karahiya, District- Gazipur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Binod Bihari Sinha
For the Respondent/s : Mr.Md. Khurshid Alam (Aag12)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-11-2019 Although the petitioner has filed this writ application for quashing of the notice dated 04.02.2019 issued by the Additional Collector – cum – Certificate Officer, Buxar (Respondent No. 3) in Certificate Case No. 5/2018-19 as also for quashing of the entire certificate proceeding, at this stage learned counsel for the petitioner submits that his grievance is with respect to the issuance of distress warrant against the petitioner and the order of attachment passed in the said certificate case during pendency of this writ application even without considering the objection preferred by the petitioner as



contained in Annexure '6' to the writ application.

Learned counsel submits that at this stage he would be satisfied if the order by which the Certificate Officer issued order of attachment and distress warrant be recalled and the case of the petitioner be considered keeping in view the objection filed by him before the Certificate Officer.

Learned counsel for the State submits that since the petitioner has already appeared and filed his show cause as it appears from Annexure '6' to the writ application, the Certificate Officer (Respondent No.30 may be directed to consider the same and determine the liability of the petitioner whereupon he may proceed to execute the order.

Having heard learned counsel for the petitioner and learned counsel representing the State, this court is of the considered opinion that once the petitioner has appeared before the Certificate Officer and has filed his objection, as contained in Annexure '6' to the writ application, the Certificate Officer was required to consider the objection of the petitioner and determine the liability as envisaged in terms of Section 10 of the Bihar and Orissa Public Demand Recovery Act, 1914. Instead of doing that, the Certificate Officer seems to have proceeded to pass an order of attachment and distress warrant against the



petitioner by erroneously recording the order on 21.10.2019 giving an impression that the petitioner has prayed for time to file a reply. Learned counsel for the petitioner submits that no such application for time was filed on behalf of the petitioner. This court, therefore, directs that the order by which the attachment and distress warrant have been issued shall not be given effect to for the present and the petitioner will file an application before the Certificate Officer pointing out the aforesaid facts within a period of 30 days from today which will be considered and if found factually correct the order by which attachment and warrant of arrest have been issued shall be recalled by the Certificate Officer. The Certificate Officer shall, therefore, proceed to consider the show cause of the petitioner and pass an appropriate order determining the liability of the petitioner. All contentions are left open to the parties.

The Writ Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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