

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15053 of 2019

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Rama Prasad Singh Son of late Chandraket Singh, Resident of Village and Post - Rahimapur, Police Station and Block- Bidupur, Sub-Division- Hajipur Sadar, District- Vaishali at Hajipur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayat Raj, Govt. of Bihar, Patna.
2. The District Magistrate, Vaishali at Hajipur.
3. The District Panchayat Raj Officer, Vaishali at Hajipur.
4. The Certificate Officer, Vaishali at Hajipur.
5. The Block Development Officer, Mahnar, District- Vaishali at Hajipur.
6. The Officer Incharge Police Station- Bidupur, District- Vaishali at Hajipur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Roy, Advocate
For the Respondent/s : Mr.Archana Meenakshee (Gp6)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 30-07-2019 Learned counsel for the petitioner submits that in this case distress warrant has been issued against the petitioner without serving any notice to show cause under Section 7 of the Bihar Orissa Public Demands Recovery Act, 1914. It is submitted that in the order sheet it has been wrongly recorded that the certificate debtor appeared and requested to stay further proceeding referring to C.W.J.C. No. 86440 of 2014 filed in the Hon'ble High Court. Learned counsel submits that he has challenged this recording of order because he had never appeared before the Certificate Officer, there was no service



report available on the records showing service of notice on the petitioner and the petitioner had never filed any writ application in this Court.

Learned counsel submits that the certificate proceeding has been initiated on the basis of the requisition sent in the name of two persons and there are various grounds which the petitioner has raised with regard to certificate proceeding against him.

Learned counsel for the State submits that in the given facts and circumstances, even without inviting any counter affidavit the writ application may be disposed off by setting aside the impugned order by which distress warrant has been issued against the petitioner and then petitioner may be given liberty to the petitioner to appear before the Certificate Officer and file show cause which will be considered in accordance with law.

Having heard learned counsel for the petitioner and learned counsel representing the State, in the nature of the submissions made before this Court, the Court thinks it just and proper to set aside the order dated 15.05.2019 by which distress warrant has been issued against the petitioner. Accordingly the order dated 15.05.2019 is set aside. The distress warrant, if any,



issued against the petitioner shall not be executed in the present case.

Petitioner is granted liberty to appear before the Certificate Officer within three weeks from today and file an appropriate show cause taking all such pleas which are available to him, thereafter the Certificate Officer shall proceed with the matter in accordance with law to determine the liability.

The writ applicant stands disposed off.

(Rajeev Ranjan Prasad, J)

vats/ved

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