

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18129 of 2019

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Jasmuddin Son of Janjalu, resident of Village Khaniyabad P.S. Fatehpur,
District- Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar.
2. District Land Acquisition Officer, Kishanganj.
3. District Certificate Officer, Kishanganj.
4. The Additional Collector-cum-Certificate Officer, Kishanganj.
5. Superintendent of Police, Kishanganj.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Amal Kumar Sinha, Advocate
For the Respondent/s : Mr.Saurabh Kumar, AC to SC19

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-10-2019 Learned counsel for the petitioner submits that on the very first day when service report of the notice under Section 7 of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as the 'Act of 1914') was brought before the Certificate Officer, the Certificate Officer without waiting for a reasonable period allowing the petitioner to turn up and file his show cause decided to issue the warrant of arrest by some stroke of pen. Learned counsel submits that a reasonable opportunity to file objection under Section 9 of the Act of 1914 has not been provided to the petitioner. It is further submitted that the department has already recovered Rs. 4,18,349/- from the Bank account of the petitioner, hence now no claim survives



against him.

Learned counsel for the State submits that the warrant of arrest was issued against the petitioner because he has not appeared despite service of show cause notice.

Having heard learned counsel for the parties and on a careful perusal of the record, this Court finds that on the same date on which the service report of show cause notice was received on the record of the certificate proceeding, the Certificate Officer decided to issue a warrant of arrest against the petitioner. In the opinion of this Court, issuance of the warrant of arrest on the same day and by some stroke of pen is not in consonance with the principles of natural justice inasmuch the Certificate Officer should have at least given one opportunity to the petitioner to appear and file his show cause.

In the given facts and circumstance of the case, the order dated 08.09.2019 to the extent it directs issuance of warrant of arrest against the petitioner is hereby set aside. The warrant of arrest issued against the petitioner shall not be executed.

Learned counsel for the petitioner submits on instruction that the petitioner will appear in the certificate proceeding within a period of four weeks from today and shall



file his show cause.

If the petitioner appears and files his show cause within the stipulated period, the same shall be considered by the Certificate Officer. It, however, goes without saying that if the petitioner fails to abide by his undertaking given before this Court the Certificate Officer shall proceed in accordance with law.

(Rajeev Ranjan Prasad, J)

vats/ved

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