

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22966 of 2019

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Upendra Singh @ Upendra Prasad Singh, aged about 76 years (Male), Son of Radha Kishun Singh @ Radha Krishan Singh Resident of village- Alipur Hatta, Ward No. 14, P.O. Aligarh Hatta, P.S. Mahnar, District- Vaishali Ex Mukhiya, Gram Panchayat Raj Alipur Hatta, Block- Mahnar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Vaishali.
2. District Magistrate cum Collector, Vaishali.
3. District Certificate Officer, Vaishali at Hajipur.
4. Block Development Officer, Mahnar Block District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Naresh Chandra Verma, Advocate Mr. Lakshmi Kant Tiwary, Advocate
For the Respondent/s	:	Mr.Ajay (GA5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

- 2 22-11-2019 It appears that in the Certificate Proceeding being Certificate Case No. 132 of 2014-15, the petitioner appeared and filed an application before the Certificate Officer informing him that the petitioner has filed one CWJC No. 1777/2015 (Token No. 86440/2014) before this court and till disposal of the said writ application further proceeding of the Certificate Case be kept in abeyance. The Certificate Officer has rejected the said request of the petitioner and directed for issuance of a distress warrant against him.



In the writ application a statement has been made in paragraph '9' that the petitioner alongwith several others have filed one CWJC No. 1777/2015 before this court for quashing of the letter issued by the Block Development Officer on 11.10.2014.

Learned counsel for the petitioner submits that the petitioner had provided the token number of the said writ application to the Certificate Officer and the request was made to keep the Certificate Proceeding in abeyance. If the Certificate Officer was not agreeable to keep the Certificate Proceeding in abeyance while rejecting the request of the petitioner one opportunity should have been granted to him to file his objection under Section 7 of the Public Demand Recovery Act, 1914.

Learned counsel submits that while rejecting the prayer of the petitioner to keep the proceeding in abeyance by the same stroke of pen the Certificate Officer has issued distress warrant.

Learned counsel for the State submits that because the petitioner was not showing interest in the Certificate Proceeding, the Certificate Officer has rightly issued



warrant of arrest against him.

In the given facts and circumstances of the case, this court is of the considered opinion that once the petitioner had appeared and informed the Certificate Officer with regard to filing of CWJC No. 1777/2015 vide token number No. 86440 of 2014 and requested the Certificate Officer to keep the proceeding in abeyance, if at all the Certificate Officer was not willing to accept the prayer of the petitioner and wanted to proceed with the matter in absence of any order of stay from the court, at least one opportunity should have been granted to the petitioner to submit his objection under Section 9 of the Recovery Act, 1914 that would have been in consonance with the principles of natural justice and fair play in action. The issuance of distress warrant simultaneously while rejecting the prayer of petitioner for keeping the proceeding in abeyance is an action in haste and hence it is liable to be set-aside.

The distress warrant issued against the petitioner is therefore held not executable and the order passed on 06.06.2019 to that extent is hereby set-aside. Liberty is



granted to the petitioner to file his objection taking all such pleas which are available to him within a period of four weeks from today. If the objection is filed within the aforesaid period the Certificate Officer shall proceed with the matter to consider the same and pass an appropriate order in accordance with Section 10 of the Public Demand Recovery Act, 1914. If the petitioner fails to file his objection within the aforesaid period, it will be open for the Certificate Officer to proceed and pass an appropriate order which is permissible in law.

The Writ Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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