

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10462 of 2017

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Sunil Kumar Singh S/o Sri Ram Dayal Singh, R/o Village- Ram Nagar, P.O.-
Bhaluahi, P.S.- Nokha, District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Cooperative Department.
2. The District Magistrate, Rohtas, Sasaram.
3. The District Certificate Officer, Rohtas, Sasaram.
4. The Sasaram Bhabhua Central Co-operative Bank, Sasaram, Rohtas through its Managing Director.
5. The Managing Director, Sasaram Bhabhua Central Co-operative Bank, Sasaram, Rohtas cum Certificate O
6. The Branch Manager, Sasaram Bhabhua Central Co-operative Nokha Branch, Nokha, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kanhaiya Pandey, Advocate
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 21-12-2021

Heard learned counsel for the parties.

Proceedings were initiated against the petitioner under Bihar & Orissa Public Demands Recovery Act, 1914. The stand of the petitioner is that in terms of Section 9 of the 1914 Act, he filed his objections before the District Certificate Officer, Rohtas, Sasaram. The Authority thereafter had to proceed in terms of the



procedure prescribed in Section 10 of the 1914 Act. The said provision is reproduced below for ready reference:

“10. Hearing and determining of such petition. - The Certificate Officer in whose office the original certificate is filed shall hear the petition, take evidence (if necessary) and determine whether the certificate-debtor is liable for the whole or any part of the amount for which the certificate was signed; and may set aside, modify or vary the certificate accordingly:

Provided that if the Certificate Officer is not the Collector, and considers that the petition involves a bonafide claim of right to property, he shall refer the petition to the Collector for orders, and the Collector, if he is satisfied that a bonafide claim or right of property is involved, shall make an order cancelling the certificate.”

According to the petitioner, without complying with the aforesaid provision, the petitioner was taken in custody and confined to civil prison. In the counter affidavit filed on behalf of the State, no clear stand is forthcoming.

Under the circumstances, we intend to dispose off this petition with the direction that in case the stand of the petitioner is correct that he has been taken in custody without adhering to the procedure prescribed in Section 10 of the 1914 Act, he shall be released forthwith.



It will be open to the Certificate Officer thereafter to
continue with the proceedings as per law.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

Anjani/-

AFR/NAFR	
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