

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 5053 of 2021**

Vishnu Pathak S/o Late Ram Dev Pathak Aged About 53 Years R/o 91/2,  
Vip Nagar, Risali, Tehsil Bhilai, District Durg Chhattisgarh 490006

**---- Petitioner****Versus**

1. Canara Bank Having Its Head Office At 648, 112, Jc Road, P. B. Halsurpete, Nagarathpete, Bengaluru, Karnataka 560001 And Branch At Bhilai Main Branch Sector 6b Market Bhilai District Durg Chhattisgarh Through Its Branch Manager
2. The Presiding Officer Debts Recovery Tribunal, 797/2, Shanti Kunj, South Civil Lines, Jabalpur 482001
3. The Recovery Officer Debts Recovery Tribunal, 797/2, Shanti Kunj, South Civil Lines, Jabalpur 482001
4. Tapan Kumar Sil D/o D. R. Sil Aged About 65 Years R/o Behind Vidyaniketan School, House No. P-5, Raipur Chhattisgarh
5. Lalji Prasad S/o Late Radhelal Aged About 76 Years R/o 24, B. G. E. Supela, District Durg Chhattisgarh
6. Anurag Chandra S/o Lalji Prasad Aged About 30 Years R/o 24, B. G. E. Supela, District Durg Chhattisgarh

**----Respondents**


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| For Petitioner | : | Dr. N.K. Shukla, Senior Advocate with<br>Mr. Ashwin Panickar, Advocate |
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**Hon'ble Mr. Justice P. Sam Koshy****Order on Board****09/12/2021**

1. The present writ petition has been filed assailing the impugned notice Annexure P/14 dated 06.09.2021, whereby a show cause notice seeking explanation of the petitioner as to why warrant of arrest should not be issued, has been challenged.
2. The contention of the petitioner is that the petitioner has been wrongly implicated in the said case in as much as the petitioner has never

borrowed any money from the respondent-Bank and he has been falsely implicated in the said case and has been prosecuted and there is also an ex parte order passed by the DRT.

3. The further contention of the petitioner is that the DRT has passed an order on 27.01.2017 an ex parte order, against which the petitioner had preferred a Miscellaneous Application registered as M.A. No. 65/2017, which got dismissed for default of appearance. Against this the petitioner had again approached the Tribunal by way of another Miscellaneous Application i.e. M.A. No. 91/2018 seeking for restoration of the earlier M.A. No. 65/2017. However, the subsequent M.A. No. 91/2018 has also got dismissed in default for want of appearance vide order dated 19.09.2018. Thereafter, it is the impugned notice (Annexure P/14) which has been now issued on 06.09.2021 and the petitioner has approached this Court by way of fresh petition filed on 01.12.2021. There does not seem to be any steps taken by the petitioner in between 19.09.2018 till the impugned notice (Annexure P/14) was issued.
4. This Court is therefore of the opinion that the proper course of action available for the petitioner would be to move to the concerned Tribunal for an appropriate remedy seeking for getting the two Miscellaneous Applications i.e. M.A. No. 65/2017 as also M.A. No. 91/2018 be restored to its original number, so that the petitioner gets the opportunity to ventilate his grievance before the Tribunal.
5. Given the said facts and circumstances of the case, reserving the right of the petitioner to approach the concerned Tribunal for moving

an appropriate application seeking for restoration of the aforesaid two Miscellaneous Applications, the present writ petition in its present form stands disposed of. Subject to the petitioner moving an appropriate application, the Tribunal is expected to take an appropriate decision on its own merit in accordance with law at the earliest.

Sd/-  
**(P. Sam Koshy)**  
**Judge**

Ved