

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 5009 of 2021

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RAJENDRA PANDIT Son of Ram Briksh Pandit Resident of village-
Purkhauli, P.s.- Lalganj, District- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Bihar, Patna
2. The Director of Panchayati Raj Department, Bihar
3. The District Panchayati Raj Officer, Vaishali at Hajipur
4. The District Magistrate, Vaishali at Hajipur
5. The Certificate Officer-cum-Additional Collector, District- Vaishali
6. The Deputy Development Commissioner-cum-Chief Executive Officer, District- Vaishali
7. The Sub Divisional Officer, Hajipur, Vaishali
8. The Deputy Collector, Land Reforms, Hajipur, Vaishali
9. The Block Development Officer-cum-Executive Officer Panchayati Samiti Prakhand, Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Kunwar Ajit Singh, Advocate
For the Respondent/s : Mr Sanjeet Kumar Singh, AC to AAG VI

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CORAM: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 05-04-2022

Heard learned counsel for the petitioner and the
respondents.

2 The petitioner was Panchayat Secretary of Chinta
Manipur Panchayat in the district of Vaishali. It appears that a



certificate proceeding was initiated against him and a distress warrant has been issued by the Certificate Officer on 29.06.2019 in the said Certificate Case No 258-14-15.

3 The petitioner has put to challenge the issuance of distress warrant in the present case without approaching the Certificate Officer by raising any objection under Section 9 of the Bihar and Orissa Public Demands Recovery Act, 1914 (for brevity, *the Act*).

4 Learned counsel appearing on behalf of the petitioner has argued that before issuance of the distress warrant, the petitioner had no knowledge about the institution of the certificate proceeding and no notice was ever served upon him in the said regard. He submits accordingly that the impugned order of the Certificate Officer requires interference by this Court.

5 Though it is the petitioner's case that no notice was ever served upon him, in our opinion, he could have still filed his objection within 30 days from the date of execution of any process for enforcing the certificate. We consider it apt to reproduce hereinbelow Section 9 (1) of the Act which reads as under:-

***“9. Filing of petition denying liability.-
(1) The certificate-debtor may, within thirty days from the service of the notice required by Section 7, or where the notice has not been duly served then within thirty days from the execution of any process for enforcing the certificate,***



present to the Certificate Officer in whose office the certificate is filed or to the Certificate Officer who is executing the certificate, a petition, in the prescribed form, signed and verified in the prescribed manner, denying the liability, in whole or in part.”

6 Section 14 of the Act posits that no step in execution of a certificate shall be taken until the period of 30 days has elapsed since the date of the service of the notice required by Sections 7 and 11, or, when a petition has been duly filed under Section 9, until such petition has been heard and determined.

7 In such view of the matter, if it is the petitioner’s case that no notice was ever served upon him, it was open for him to file his objection in accordance with the provisions under Section 9 of the Act, instead of approaching this Court by filing present writ application. It would be apt to reproduce Section 14 of the Act which reads as under:

“14. When certificate may be executed.- No step in execution of a certificate shall be taken until the period of thirty days has elapsed since the date of the service of the notice required by Sections 7 and 11, or, when a petition has been duly filed under Section 9, until such petition has been heard and determined.”

8 Section 14 clearly lays down that unless a petition, duly filed under Section 9 of the Act is heard and determined, no step in execution of a certificate can be taken. In our opinion, Section 9 read with Section 14 of the Act provide adequate



protection, in case an objection is filed in terms of Section 9 of the Act and in case notice is found to have been served.

9 This application is, thus, disposed of with a liberty to the petitioner to invoke provision under Section 9 of the Act by filing objection/representation before the Certificate Officer and to derive benefit of the provision of Section 14 of the Act.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2022
Transmission Date	NA

