

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9947 of 2022

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M.L. Sridhar Reddy Son of M. Laxminarayana Reddy, resident of 8-2-293/82/NL/110, Road No. 10-C, MLA and MP Colony, Jubilee Hills, Police Station-Jubilee Hills, Hyderabad, District-Hyderabad-500033, Telangana, one of the Ex-Director of M/s Vishwa Infrastructures and Services Private Limited, having its registered office at 1-11-256/C/24, Plot No. 24, Ganga Vihar Colony, Begumpet, Hyderabad-500016.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, District-Bettiah.
2. The District Magistrate, Bettiah District, Bettiah.
3. The Certificate Officer, Bettiah District, Bettiah.
4. The Additional Collector, Bettiah.
5. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
6. The Engineer-in-Chief, Public Health Engineering Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
Mr. Rajeev Shekhar, Advocate

For the Respondent/s : Mr. Arvind Ujjwal, SC 4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-12-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- i) To issue a Writ in the nature of Certiorari for quashing the Recovery Notice in the form of Final Warning Notice dated 14.05.2022 for recovery of



alleged dues to the tune of Rs.1,42,06,000/- issued by the District Certificate Officer, Bettiah against the petitioner in Certificate Case No.11 /2017-18 failing which the bailable warrant be issued including the entire Certificate proceeding having been initiated against the petitioner as same is in teeth of law laid down by Hon'ble Supreme Court in case of "Ghanshyam Mishra and Sons Private Limited through the Authorized Signatory v/s Edelweiss Asset Reconstruction Company Limited through the Director and ors", decided on 13.04.2021 and the provisions of Insolvency and Bankruptcy Code, 2016, rendering the same as wholly without jurisdiction.

ii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.”

Learned counsel invites our attention to the impugned order dated 24.03.2022 (Annexure-3, Page-52) and notice dated 14.05.2022 (Annexure-4 Page 56) passed by the District Certificate Officer, Bettiah in Certificate Case No. 11/2017-18.

We notice that the jurisdictional issue and maintainability of the proceedings, under the Debt Recovery Act, though raised by the petitioner, was neither considered nor dealt with by the appropriate authority. The jurisdictional



issue ought to have been decided in view of the objection application (Annexure-2, Page 34) filed under Section 9 of the Bihar & Orissa Public Demand Recovery Act (hereinafter referred to as the 'Act').

We also notice that in similar situation, a co-ordinate Bench of this Court in CWJC No. 8040 of 2022, titled as **M/s Vishwa Infrastructures and Services Private Limited Vs. The State of Bihar & Ors.**, directed the petitioner herein to file a fresh objection under Section 9 of the Act.

Under these circumstances, we quash and set aside the impugned order dated 24.03.2022 (Annexure-3, Page-52) and notice dated 14.05.2022 (Annexure-4 Page 56) passed by the District Certificate Officer, Bettiah in Certificate Case No. 11/2017-18, with the direction to the petitioner to appear before the authority on 28.12.2022 at 10:30 A.M., along with a copy of this order, on which date additional material in support of the application shall be filed, or else file a fresh petition under Section 9 of the Act, should the need so arise.

The appropriate authority shall consider and dispose of the petitioner's petition expeditiously, by a reasoned and



speaking order, preferably within a period of three months from the date of appearance of the petitioner before him and till then no coercive steps be taken against the petitioner.

The authority shall also examine as to whether the amount in question falls within the definition of public demand or not.

Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Order assigning reasons shall be supplied to the parties.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Liberty reserved to the petitioner to challenge the order passed by the appropriate authority, before the appropriate forum, if so required and desired.

We have not expressed any opinion on merits. All



issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	16.12.2022
Transmission Date	

