

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19603 of 2021

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M/s Sunita Raj Construction Pvt. Ltd., Mohalla-Nayatoal, P.O.-Jamni, P.S. and Distt-Jamui, through its MD/Owner Raj Kumar Singh, male, aged about 56 years, S/o Avinash Chandra Singh, R/o Naya Tola, P.O. and P.S. and District-Jamui at present, Williams Town, Deoghar, B, Deoghar (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Rural Works Deptt, Govt. of Bihar, Patna.
3. The Principal Secretary, Maines Deptt. Govt. of Bihar, Patna.
4. The Principal Secretary, Finance Deptt., Govt. of Bihar, Patna.
5. The District Magistrate, Jamui.
6. The Executive Engineer, Rural Works Deptt., Govt. of Bihar, Patna.
7. The Mining Inspector-cum-Saksham Padadhikari Bank.
8. The Certificate Officer, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Uma Shankar Sharma, Adv
For the Respondent/s : Mr.Kumar Alok (SC7)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 01-02-2022

Heard learned counsel for the parties.

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

“(i) And consequently for cancellation of last warning notice dated 06.04.2021 (contained in Anx-4) issued under the signature of the “Nilampatra Padadhikari, Banka in case no. 13/2017-18 for realisation/recovery of Rs. 2249204/- (rupees twenty two Lakhs forty nine thousands two hundred and four.

(ii) And for issuance of writ/order/direction to not demand/realise/recover Rs. 2249204/- (Rupees twenty two

lakhs forty nine thousand, two hundred and four) as mentioned in last warning notice, dated 06.04.21 issued under the signature of Nilampatra Padadhikari Banka, issued in case no. 13/2017-18 issued from Samaharnalay Banka (Nilam Patra Shakha) issued in the name of M/s Sunita Raj construction Pvt. Ltd.

(iii) And to set aside form no. 2, (contained in Anx-3) Requisition under section 5 of Bihar & Orissa Act IV, 1914 issued under the signature of Mines Inspector cum Competent Authority Banka dated 20.05.17 issued in the name of the petitioner demanding Total Rs. 2249204/- (Rupees Twenty Two Lakhs forty nine thousand two hundred four).

(iv) To stay the arrest warrant dated 30.07.21 issued (against) the authority concerned in District Banka case no. 13/2017-18 and set aside the proceeding of Banka case no. 13/2017-18 pending before the authority/court of CO Banka (contained in Annexure-6) and consequently.”

It is not in dispute that petition under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as “the Act”) is pending consideration/petitioner intends to file before the appropriate authority.

Learned counsel for the parties jointly pray that the instant petition be disposed of with direction to the appropriate authority to consider and decide the same expeditiously.

Learned counsel for the State states that the appropriate authority shall consider and decide the petition filed to be filed by the petitioner under Section 9 of the Act positively within a period of two months from the date of appearance of the petitioner before him along with a copy of this order and the

issue of limitation shall not come in the way of decision on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall appear in the office of the appropriate authority on **21.02.2022** along with a copy of this order, on which date documents in support of the petition shall be filed, or else file a fresh petition under Section 9 of the Act.

(b) The appropriate authority shall consider and dispose of the petitioner's petition expeditiously, by a reasoned and speaking order, preferably within a period of two months from the date of appearance of the petitioner before him and till then no coercive steps be taken against the petitioner;

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

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

(e) Order assigning reasons shall be supplied to the parties;

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

(g) 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;

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

(i) 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)

(S. Kumar, J)

ranjan/-

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