

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15825 of 2022

-
1. Raj Kumar Singh son of Kamal Singh permanent resident of Ward No. 9, Village and P.O.- Karsahiya, P.S. Dhaka, District- East Champaran at Motihari, Presently residing at Village/ Mohalla and P.O.- Pautara, P.S. Motihari, District- East Champaran at Motihari.
 2. Abha Devi, wife of Raj Kumar Singh, permanent resident of Ward No. 9, Village and P.O.- Karsahiya, P.S. Dhaka, District- East Champaran at Motihari, Presently residing at Village/ Mohalla and P.O.- Pautara, P.S. Motihari, District- East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary/ Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Collector cum District Magistrate/ District Registrar, East Champaran at Motihari.
4. The District Certificate Officer-cum- District Panchayat Raj Officer, East Champaran at Motihari.
5. The Chief Manager and Authorized Officer, Bank of India, Muzaffarpur Zone, Muzaffarpur.
6. The Regional Manager, Bank of India, Muzaffarpur Zone, Muzaffarpur.
7. The Circle Manager/ Authorized Officer, Bank of India, Circle Office, Yamuna Complex, Mithanpura Chowk, Muzaffarpur.
8. The Branch Manager, Bank of India, Motihari Branch, Motihari.
9. The Authorized Officer, Stressed Assets Recovery Branch, Bank of India, Motihari, District- East Champaran at Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jeetendra Narayan, Advocate
For the Respondent/s : Mr.Anil Kr. Singh (GP26)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-11-2022

Petitioners have prayed for the following relief(s):



“(i) For issuance of an appropriate writ(s), order(s), direction(s) to the respondents for quashing the proceeding of Certificate Case No. 385/BOI/2019-20 titled as Branch Manager, Bank of India, Motihari Branch, Motihari Vs. Raj Kumar Singh and another arising out of a request made by the Sr. Branch Manager, Bank of India, Motihari Branch, Motihari on 3rd of January, 2020 relating to the Certificate Debtor i.e. petitioners Account No. 444175110000015 for which the requisition is made and total amount of Rs. 8,66,099.76 in view of section 7 of the Bihar-Orissa Public Demand Recovery Act, 1914.

(ii) And also for issuance of an appropriate writ(s), order(s), direction(s) to the respondents to not take any coercive steps relating to the subject matter because the petitioners have already been moved before the learned Debt Recovery Tribunal, Patna by way of SARFAESI Application No. 76 of 2021 which is sub-judice before the said tribunal.

(iii) And for any other relief/ reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case, in the light of safeguard provided by the Constitution of India.”

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/petitioners intend 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 to be filed by the petitioners 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) Petitioners shall appear in the office of the appropriate authority on 12.12.2022 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 petitioners' petition expeditiously, by a reasoned and speaking order, preferably within a period of two months



from the date of appearance of the petitioners before him and till then no coercive steps be taken against the petitioners;

(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 petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioners take 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 petitioners 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)

(Partha Sarthy, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	25.11.2022
Transmission Date	

