

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19679 of 2015

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Shravan Kumar, S/o Meghu Sao, Director of Shiv Sagar Rice Mill Pvt Ltd.,
Maniyawan Road, Deepnagar, Nalanda.

... .. Petitioner/s

Versus

1. The Chief Manager-cum-the Authorized Officer, Punjab National Bank
Branch Office-Biharsharif, District-Nalanda.
2. The Chairman-cum-the Managing Director, Punjab National Bank, HO-5,
Sansad Marg, New Delhi- 110001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Kumar Sinha, Advocate.
For the Respondent/s	:	Mr. Kumar Priya Ranjan, Advocate.
For the PNB	:	Mr. Mritunjay Kumar, Advocate.
		Mr. Vibhuti Kumar, Advocate.
		Ms. Shilpi Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 19-09-2023 Heard learned counsel for the parties.

2. The present writ petition has been filed for the
following reliefs:-

*“For directing the
Respondents to pay compensation for the
sum of Rs. 05,45,09,000/- for taking
forceful illegal possession of the
Residential House and Shiv Sagar Rice
Mill of the petitioner and compelling the
petitioner along with his entire family
members to remain shelter less on the
road with no earnings and caused huge
monetary loss by closure of running Shiv
Sagar Mill for the period of 2.5 months
with an mala fide intention to grab the
property of the petitioner in an illegal*



way in the name of recovery of bank loan which was declared illegal and void by this Hon'ble High Court by order dated 09.09.2015 passed in CWJC No. 10332 of 2015 with all consequential benefits to this petitioner."

3. Learned counsel appearing on behalf of the petitioner has stated that this Hon'ble Court vide order dated 09.09.2015 passed in CWJC No. 10332 of 2015 has set aside the order of the District Magistrate contained in letter No. 580/vidhi dated 19.03.2015 granting all consequential reliefs to the petitioner and also directed to put back the petitioner in possession of the rice mill and the residential house. Learned counsel states that the consequential reliefs which have been granted by this Hon'ble Court in the CWJC No. 10332 of 2015 dated 09.09.2015 have given a right to the petitioner to seek the reliefs sought in the present writ petition. That due to the illegal dispossession of the petitioner and his family from the residential house and the rice mill the petitioner and his family had to suffer mentally, face hardships and sustained financial losses. Therefore, prayed this Court to allow the present Writ Petition and grant the reliefs sought for.

4. Per contra the learned counsel appearing on behalf of the respondents has stated that the present Writ Petition is not maintainable as the petitioner has not made the



District Magistrate as a party respondent. Learned counsel has stated that the order of the District Magistrate was set aside by this Hon'ble Court and grievance of the petitioner is against the District Magistrate. However, the District Magistrate has not been made a party respondent to the present CWJC. Further it is stated that the bank officials have subsequently taken possession of the subject property under Section 13(4) of the SARFAESI Act, though the petitioner has approached this Hon'ble Court vide CWJC No. 18737 of 2017, the said Writ Petition was dismissed on 12.03.2019. Thereafter, the petitioner has filed an appeal before the DRAT and the matter is pending adjudication before the DRAT. Learned counsel has stated that the petitioner has not filed any proof of the losses sustained by him and his family. The question as to whether the petitioner has sustained any loss or not have to be proved by leading evidence and this Court sitting under Article 226 of the Constitution of India cannot adjudicate the said issue. Learned counsel has stated that the reliefs sought for by the petitioner cannot be granted in the present Writ Petition and the Writ Petition is liable to be dismissed.

5. As seen from the records, the petitioner is seeking compensation of Rs. 05,45,09,000/- for his forceful and



illegal dispossession from the residential house and rice mill. Even though the petitioner has claimed the above amount on the ground that he was dispossessed and his entire family was on road with no earnings for a period of approximately eighty days. No proof has been filed by the petitioner to substantiate the said claim in the present Writ Petition except filing the order of this Hon'ble Court in CWJC No. 10332 of 2015 dated 09.09.2015 and letters issued by the petitioner to the Bank as well as the District Magistrate. Except the above documents no other documents have being filed by the petitioner to substantiate his claim. This Court sitting under Article 226 of the Constitution of India cannot adjudicate disputed questions of fact. The question as to whether the petitioner was forcibly dispossessed or not and whether his family has suffered any financial loss have to be proved by leading cogent and convincing evidence before a competent Civil Court. It is only the competent civil court having jurisdiction which can pass a decree in favour of the petitioner basing on the evidence (oral and documentary) led by the party before that Court. This Court is illequipped to deal with the disputed questions of fact, more so in the absence of any evidence to substantiate the claim made by the petitioner that he has sustained any loss, no relief can be granted in the



present CWJC. There are no merits in the present Writ Petition which warrants any interference by this Court. The Writ Petition is devoid of merits and liable to be dismissed.

6. Having regard to the above, the present Writ Petition is dismissed. However granting liberty to the petitioner to approach a competent Civil Court if he is so advised for the reliefs sought for in the present Writ Petition.

(A. Abhishek Reddy , J)

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