

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16761 of 2022

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Pankaj Kumar Son of Sri Yogendra Prasad Pathak, Resident of Ward No. 15,
Near Gayatri Mandir, Hanuman Nagar, P.S. Araria Town, District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Executive Engineer, Rural Works Division, Naugachhia, Bhagalpur.
3. The Deputy Development Commissioner-Cum-Certificate Officer, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
For the State	:	Mr.Kameshwar Prasad Gupta (GP 10)
		Mr.Deepanjali Gupta, AC to GP 10

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

4 14-03-2023 The petitioner challenges the PDR proceedings initiated against him under the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter to be referred as the ‘Act, 1914’).

2. Learned counsel submits that the dispute and claim raised by the respondents do not come within the ambit of the public demands as mentioned in Schedule- I to the Act, 1914, as it is claimed under a contract.

3. Learned counsel further submits that he has filed objections under Section- 9, which have been rejected on the ground of limitation by the concerned authority.



4. Per contra the learned counsel appearing for the State has objected to the maintainability of the writ petition and it has been stated that the petitioner had efficacious remedy to take up all the objections by filing appeal against the order.

5. I have considered the submissions. Schedule- I to the Act of 1914 was amended by the Bihar and Orissa Public Demands Recovery (Amendment) Act, 1993 and it lists any arrears of revenue, which remains due in different circumstances, more pertinently in terms of Clause 9 of the Schedule, any money payable to a servant of the government or any local authority in respect of which the person is liable to pay, the same as agreed by a written instrument, will be recoverable as a public demand.

6. Thus, if an agreement is entered into, namely a contract and the same is not abided and an amount payable is not paid to the local authority, government or any of its bodies, the same is recoverable as a public demand within meaning of Clause 9 of Schedule-I. Thus, it is apparent that the amount as claimed by the respondents would be recoverable as a public demand since an agreement has been entered between the parties and the money arises on account of the said contract as admitted by the petitioner himself. Keeping in view thereto, the



contentions of the learned counsel stands rejected.

7. As regards the petitioner's objection U/S 9, which has been rejected on the ground of limitation, in the considered opinion of this Court, the petitioner can take up the matter again before the concerned authority giving out the reasons for the delay in filing the objections.

8. In the opinion of this Court, the time frame laid down for filing of objections is not mandatory but is directory in nature. Recently, the Hon'ble Apex Court in the case of *Govt. of Maharashtra (Water Resources Department) Vs. Borse Brothers Engineers & Construction Pvt. Ltd.* reported in *2021(6) SCC 460* has held in Para no.35 as under :

“35. It may also be pointed out that though the object of expeditious disposal of appeals is laid down in Section 14 of the Commercial Courts Act, the language of Section 14 makes it clear that the period of six months spoken of is directory and not mandatory. By way of contrast, Section 16 of the Commercial Courts Act read with the Schedule thereof and the amendment made to Order 8 Rule 1 CPC, would make it clear that the defendant in a suit is given 30 days to file a written statement, which period cannot be extended beyond 120 days from the date of service of the summons; and on expiry of the said period, the defendant forfeits the right to file the written statement and the court cannot allow the written statement to be taken on record. This provision was enacted as a result of the judgment of this Court in *Salem Advocate Bar Assn. (2) v. Union of India.*”



9. Therefore, such limitations provided under the various Acts are to be considered directory in nature. In view thereof, the concerned authority ought to examine the issues on merits instead of delving of limitation. Order rejecting objections on the ground of limitation is set aside.

10. Granting such liberty, this writ petition is disposed of with the aforesaid observations.

(Sanjeev Prakash Sharma, J)

Chn/-
Item No.26

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