

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22270 of 2019

=====

Siya Ram Yadav Son of Mochan Yadav@ Bhochan Yadav, Resident of
Village- Hirolwa, Block- Shankarpur, P.S. Shankarpur, District- Madhepura,
Proprietor of Hirolwa Rice Mill, Jirwa Madheli.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Bir Chand Patel Path, Patna.
3. The Deputy Chief (Claim), Bihar State Food and Civil Supply Corporation, Sone Bhawan, Bir Chand Patel Path, Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited Madhepura.
5. The Area Manager, Bihar State Food and Civil Supplies Cum District Officer, Madhepura.
6. The District Magistrate Cum Collector, Madhepura.
7. The District Certificate Officer, Madhepura.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Shekhar Kumar Singh, Advocate
For the State	:	Mr. Arvind Ujjwal, SC5
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-01-2023 Petitioner has prayed for the following relief(s):

“(i) For issuance of Writ/Writs,
Order/Orders, Direction/Directions, in the nature of
Certiorari, for quashing the order impugned vide
D.B. No. 1823 dated 26.8.2019 issued by District
Certificate Officer, Madhepura passed in Certificate



Case No. 09/2014- 15 whereby and where under exercise the power Under the provision of section 15 (a) of Bihar and Orissa Public Demand Recovery Act 1914. In which attachment and sale of immovable property through attachment order dated 1.7.2017 was passed by the District Certificate Officer, Madhepura and in pursuant to the aforesaid order the notice vide D.B.No. 1823 dated 26.8.2019 has been issued by the respondent and the decision has been taken by the respondents for sale and Auction of the landed/ immovable property of the petitioner. Where as the Request case No. 247/2017 has already been pending in view of the Hon'ble Patna High Court's order dated 1.8.2018 passed by Hon'ble Mr. Justice Rajendra Menon, the Chief Justice of the Hon'ble High Court, Patna and during the pendency of the Request Case the District Certificate Officer has taken the decision for attachment sale and Auction of the immovable property of the petitioner.

(ii) For further Quashing the impugned order dated 1.7.2017 passed by the District Certificate Officer, Madhepura passed in Certificate Case No. 09/14-15 in which exercise power under the provision of section 15(a) Bihar and Orissa publics Demand Recovery Act 1914. In which total land 8.521.859 Dismals. Land belonging to the petitioner along with the petitioner's brother namely Upendra Yadav has been attachment for sale and auction during the pendency of the Request Case No.247/2017 and without following the decision of



the Hon'ble Supreme court's has passed an order in Special Leave to Appeal No.450/2018 and an order passed on dated 29.1.2018 even though Hon'ble Supreme court upheld order and passed the aforesaid order in the matter of constituting and Arbitral Tribunal and referring the matter for Arbitration. There after the Hon'ble Patna High Court has also passed an order dated 1.8.2018 and constitution the Arbitrator in Request Case No. 247 of 2017 and during the pendency of the Arbitration case the District Certificate Officer has issued vide D.B. No. 1823 dated 26.8.2019 in Certificate Case No. 09/14-15 having without following the guide line of the Hon'ble Supreme Court. As well as the Hon'ble High Court, Patna.

(iii) For further prayed during the pendency of the writ application may kindly stay the impugned notice issued by the District Certificate Officer in D.B. No. 1823 dated 26.8.2019.

(iv) For further any other relief/reliefs, order/orders, direction/directions, may deem fit and proper in the facts and circumstances of this case.”

It is not in dispute that petition under Section 9/60 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 to be filed by the petitioner under Section 9/60 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 25.01.2023 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 9/60 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)

(Partha Sarthy, J)

Saurabh/K.C.Jha

U			
---	--	--	--

