

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23783 of 2013

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Ram Charitra Sah Son Of Late Gena Sah Resident Of Village - Labh Gaon,
P.O. - Labh Gaon, P.S. - Gangaur, District - Khagaria

... .. Petitioner/s

Versus

1. Area Manaer Cum Certificate Officer Land Development Bank, Khagaria
2. Branch Manager, Land Development Bank, Khagaria
3. Managing Director Cum Chairman, Land Development Bank, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pravin Chandra Prasad, Advocate
For the Respondent/s : Mr. Rajesh Prasad Choudhary, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY
ORAL JUDGMENT
Date : 29-03-2024

This writ application is filed in the nature of certiorari challenging the appointment of the respondent Certificate Officer on the whole of the proceeding of Certificate Case No.14 of 2002-03, for quashing under Bihar and Orissa Public Demand Recovery Act, 1914 under section 3(3)-both on the principle of *ejusdem generis* as well as on the principle of bias.

2. The case of the petitioner in brief is that the petitioner claims himself to be the younger brother of deceased Rameshwar Sah who was the loanee of Land Development Bank, Khagaria who died on 01.07.2003, as per Annexure-1. The petitioner has two brothers, who got partitioned the joint



properties between themselves, as per photocopy of partition deed vide Annexure-2. The Branch Manager, Land Development Bank, Khagaria addressed a letter to the loanee Late Rameshwar Sah, for discount of interest amount, as per Annexure-3. The petitioner and his elder brother Rameshwar Sah has sworn affidavit before the Notary Public, Khagaria, for not to interfere with the separate properties of the petitioner, as per Annexure-4A and 4B. The petitioner appeared before the certificate Officer cum Area Manager, Land Development Bank, Khagaria and filed objection petition on 15.10.2005 in Certificate Case No.14/2002-03, as per Annexure-5. The Branch Manager, Land Development Bank, Khagaria has replied to objection petition before the Certificate Officer cum Area Manager, Land Development Bank, Khagaria in Certificate Case No.14/2002-03, as per Annexure-6.

3. The petitioner filed Civil Title Suit No.23 of 2005 dated 13.06.2005 before the Additional Munsif, Khagaria against the order dated 16.03.2006 passed by the certificate officer cum Area Manager, Land Development Bank, Khagaria. But the Additional Munsif, Khagaria has passed order dated 26.06.2006 rejecting the prayer for stay, as per Annexure-7. Further the petitioner preferred Miscellaneous Appeal



No.03/2006 before District Judge, Khagaria against the order dated 26.06.2006 of the Additional Munsif, Khagaria in Title Suit No.23 of 2005 and the District Judge, Khagaria passed an order on 26.09.2008 with a direction to the Land Development Bank and the said suit was disposed of, as per Annexure-8. The petitioner filed complaint case no.365(c) of 2003 before the Chief Judicial Magistrate, Khagaria against the Branch Manager, Land Development Bank, Khagaria, as per Annexure-9 and the same was compromised on few terms and conditions and the Compromise petition was filed before the Judicial Magistrate Ist Class, Khagaria in Complaint Case no.365C of 2003, as per Annexure-10.

4. It is specific contention by the learned counsel for the petitioner that this Hon'ble Court passed orders in C.W.J.C.No. 672 of 2002 and analogous cases vide order dated 14.01.2003, which is reported in 2003 (I) 362 contending that Bihar and Orissa Public Demand Recovery Act 1914, Section 3(3)-both on the principle of bias, any officer of BCICO can in no case be appointed as a Certificate Officer as per provision of section 3(3). Since Public Perception would be there to the effect that they would not get justice in the hands of an officer of the certificate holder itself, acting as a Certificate Officer and,



therefore, contends that the appointment of the Certificate Officer itself is illegal and arbitrary and, therefore, prayed to quash the appointment of the Certificate Officer, who issued proceeding in Certificate Case No. 14 of 2002-03.

5. Apart from that the petitioner has also filed additional supplementary affidavit along with a copy of the judgment dated 16.03.2006 passed in Certificate Case No. 14/2002-03 and also contends that he has deposited Rs. 35,000/- as per Annexure-12.

6. Heard learned counsel for the petitioner and learned counsel for the respondents and perused the entire records.

7. The present writ application itself is filed challenging the appointment of the Certificate Officer – cum -Area Manager but the writ application does not disclose as to when respondent no. 3 i.e. the Certificate Officer was appointed. There is no impugned order before this Court to quash the appointment of Certificate Officer – cum Area Manager. Furthermore, the petitioner himself has appeared before the Certificate Officer – cum – Area Manager on 15.10.2005. Subsequent to that, a Title Suit was filed, which was disposed of on 13.06.2005. The name of Certificate Officer



is also not mentioned in the writ application. No notice has been issued to the respondent no. 3 against whom the present writ application is filed seeking relief to cancel his appointment order. In the absence of any such details or of the impugned order, a writ of certiorari is not maintainable. Therefore, the writ petition itself is dismissed as it is devoid of merits.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2024
Transmission Date	

