

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.519 of 2025

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1. Poonam Agrawal, wife of Late Pradeep Agrawal, resident of Flat Number N-801, Uday Giri Apartment, Budh Marg, Patna-800001, presently resident of House Number 244, Road No. 9, Rajendra Nagar, P.O. and P.S.-Kadam Kuan, Patna.
 2. Simran Agrawal, son of Late Pradeep Agrawal, R/o Flat No. N/801, Uday Giri Apartment, Budh Marg, Patna-1, presently resident of H. No. 244, Road No. 9, Rajendra Nagar, P.O. and P.S.-Kadam Kuan, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of Finance, Govt. of Bihar, Patna.
2. The Principal Secretary cum Commissioner, Department of Finance, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Certificate Officer cum Officer in Charge, Disaster Management, Patna.
5. The Senior Superintendent of Police, Patna.
6. The Officer in Charge Kadam Kuan Police Station, Patna.
7. The South Bihar Power Distribution Company Limited through its Managing Director, Vidyut Bhawan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prakash Chandra Agrawal, Advocate.
For the Respondent/s : Mr. Government Pleader (17)

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

Date: 01-07-2026

Heard the learned counsel for the parties.

2. The present Writ Petition has been filed for the
following relief(s):-

*“(i) For issuance of a writ in the
nature of certiorari for quashing of the
letter bearing reference number 141/aa.pra.
Dated 17.07.2019 issued by the respondent*



4 served upon the petitioner for the first time by local police on 28.12.2024 whereby the police authorities have been requested to execute the process issued for attachment of property in connection with recovery of certificate amount in certificate case number 10/2013-14/181/2001-02 against Simran Metals Ltd and the managing director Mr Pradip Agrawal.

b) For further issuance of a writ or order or a direction upon the respondent 4 to award proper opportunity of hearing to the petitioners who are legal heirs of the managing director Mr Pradip Agrawal and also take steps for consideration of the pending objections already filed in the records of the certificate case number 10/2013-14/181/2001-02 before proceeding to take any action against the personal assets of the petitioners and other legal heirs of the late managing director of the company;

c) For further issuance of writ or order or a direction restraining the respondent number 4 from taking any coercive action against the petitioners and all other legal heirs of late managing director of Simran Metals Ltd including their personal assets till the objections already on the records of the certificate case number 10/2013-14/181/2001-02 and also adequate opportunity of hearing afforded to the petitioners and other such legal heirs in connection with recovery of alleged certificate dues from out of the assets of late managing director;

d) For further holding and a declaration that the respondent at 4 could not have proceeded to issue any process for



attachment of the personal assets of the petitioners being legal heirs of late managing director of Simran Metals Ltd on account of recovery of certificate dues against the company namely Simran Metals Ltd as the outstanding dues as such could be recovered only from out of the assets of the company alone.”

3. Learned counsel appearing on behalf of the petitioner submits that the certificate proceedings was initiated against the Simran Metals Ltd and the Managing director Pradeep Agrawal *vide* Certificate Case No. 10/2013 – 14/181/2001-02 and the warrant of attachment *vide* Memo No. 141 dated 17.07.2019 was served upon the petitioners for the first time on 28.12.2024. That the police authorities *vide* the above memo have been requested to execute the process issued for attachment of property in connection with recovery of certificate amount in Certificate Case No. 10/2013-14/181/2001-02 against Simran Metals Ltd. and the then Managing Director, late Pradeep Agrawal. Learned counsel submits that by the time the order of attachment was issued against the Managing Director, Pradeep Agrawal i.e., the husband and the father of the petitioner No. 1 and Petitioner No. 2 respectively and he died in the month of May, 2021 itself, therefore, issuance of the warrant against a dead person is *void ab initio* and *non-est* in the eye of law. Further, it is stated that the original amount recoverable from the husband of the Petitioner



No. 1 is only Rs. 1,98,59,170/- and the respondent-authorities are trying to recover an amount of Rs. 3,94,00,287/- from the Managing Director, Pradeep Agrawal. Learned counsel appearing on behalf of the petitioner submits that issuance of the warrant *vide* Memo No. 141 dated 17.07.2019 which was served on 28.12.2024 is without jurisdiction and contrary to the provisions of the Bihar and Orissa Public Demand Recovery Act, 1914 (herein after referred to as 'the PDR Act'). That the petitioners are residing in the personal property of late Pradeep Agrawal which has been succeeded by the petitioners and other legal heirs by virtue of law of succession and the said property does not belong to Simran Metals Ltd.

4. Learned counsel for the petitioner has relied on the Judgment of this Hon'ble Court (Ranchi Bench) dated 10.05.1999 passed in CWJC No. 11 of 1998 (R) reported in ***(2000) 1 PLJR 591 (Smt. Gita Devi v. State of Bihar and Ors.)*** and the Judgment of this Hon'ble Court dated 07.04.2004 passed in CWJC No. 7271 of 2003 reported in ***(2004) 2 PLJR 515 (Amar Prasad Sahu v. The State of Bihar & Ors.)*** and also the Judgment dated 01.10.2018 passed in CWJC No. 22205 of 2013 (***Most. Monakiya Devi v. The State of Bihar and Ors.***).

5. Learned counsel for the petitioner has stated that issuance of warrant against a dead person is totally



impermissible and further, it is stated that the claim itself is barred by limitations as the respondent-authorities have taken their own sweet time in initiating the proceedings, that to against a dead person. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned demand notice and also the warrant *vide* Memo No. 141 dated 17.07.2019 and quash the certificate proceedings.

6. Per contra, the learned counsel appearing on behalf of the Respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioners are having a remedy of filing their objections under Section 9 of the PDR Act before the Certificate Officer and the same shall be considered in accordance with law and necessary final orders under Section 10 of the Act will be passed. However, the petitioners without filing their objections have straightaway approached this Hon'ble Court by way of the present CWJC and the same is not legally permissible. Learned counsel has stated that the question of limitation does not arise as the process of recovery of the certificate amount has been continuing right from the period when the said Pradeep Agrawal was alive. That the petitioners being the legal heirs of the said



Pradeep Agrawal are bound to pay the outstanding due amounts owned by Pradeep Agrawal. Learned counsel has stated that as per Section 52 of the PDR Act, the authorities are well within their rights to proceed against the petitioners herein and also the other legal heirs of the late Pradeep Agrawal. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

7. Admittedly, in the present writ petition the facts are not in dispute, it is a fact that the said Pradeep Agrawal who is the husband of the petitioner No. 1 and the father of the petitioner no. 2. The cause of action for initiating the certificate proceedings started in the year 2001-02 and Pradeep Agrawal died in the month of May, 2021 and the certificate case has been initiated in the year 2001-02 *vide* Certificate Case No. 10/2013-14/181/2001-02 against the Simran Metals Ltd. and the then Managing Director Pradeep Agrawal. It is settled law that continuation of any proceedings against a dead person are *non-est* in the eye of law and without jurisdiction.

8. This Hon'ble Court (Ranchi Bench) in the case of ***Smt. Gita Devi v. State of Bihar and Ors.*** in the Judgment dated 10.05.1999 passed in CWJC No. 11 of 1998 (R) reported in ***(2000) 1 PLJR 591*** has held as under:-



“7. From perusal of the aforesaid provision, it is clear that the provision is applicable to cases where the certificate-debtor dies before signing of the certificate. This Section is attracted where the certificate debtor dies after certificate is issued but before the certificate has been fully satisfied. It is well settled that where the certificate debtor dies during pendency of the certificate proceeding then the certificate officer can proceed against the legal representatives of the deceased brought on the record and after serving them notice as prescribed under the Act. This section does not confer power to the certificate officer to continue the proceeding against the legal representatives even if the certificate proceeding was initiated against the dead person. To clarify this position, the Board of Revenue have issued instructions. Clause 20 of the Board’s instruction reads as under:-

“20. Procedure to be followed when a certificate-debtor dies before or after the certificate is made. Section 52 of the Act lays down the procedure to be followed when a certificate-debtor dies at any time after the signing of the certificate. If the debtor has died before the certificate is signed the certificate is void, and a fresh certificate must be made against the legal representative of the deceased. The Initiative, where the sum is payable to the Collector originally, should rest with the Certificate Officer, for in such a case no requisition is needed, in a demand of this nature the Certificate Officer when striking off for due reason a case, the demand in which has not been fully realised or remitted should promptly sign a fresh properly



prepared certificate for the realisation of such demand and at the same time send Intimation to the Requiring Officer for note in his Register. Where the demand is not payable to the District Collector originally, the initiative lies with the authority who made the original requisition.”

8. It is, therefore, clear that if the certificate is signed after the death of certificate-debtor then the certificate is void and a fresh certificate must be made against the legal representative of the deceased, in that view of the matter, in my opinion, when, admittedly, late husband of the petitioner died before the certificate was signed, entire certificate proceeding is void and Certificate Officer has no jurisdiction to continue the certificate proceeding against the petitioner unless a fresh certificate is signed and a proceeding is initiated against the legal representatives of the deceased or against any person, who is in custody and possession of the vehicle.”

9. This Hon’ble Court in the case of ***Amar Prasad Sahu v. The State of Bihar & Ors.*** reported in ***(2004) 2 PLJR 515*** in the Judgment dated 07.04.2004 passed in CWJC No. 7271 of 2003 has held as under:-

“It is contended that in view of the Division Bench decision of this Court in the case of Kanhaiya Lal v. State of Bihar, reported in 2002 (2) PLJR 553, liability of a company cannot be enforced against its officers, Including Director or Managing Director. Any debt payable by an Incorporated Company can be realised only by seizing the assets of the company and not



by putting in prison the Managing Director or any of the officers of the Company. Mr. Chatterjee, learned counsel for the petitioner, thus, submitted that the petitioner, who now ceases to be the Director of the Company after June, 1994, the certificate proceeding in question initiated against him for realisation of the aforementioned debt is wholly without jurisdiction and bad in law.”

10. And also in the case of ***Most. Monakiya Devi v.***

The State of Bihar and Ors. passed in CWJC No. 22205 of 2013 dated 01.10.2018 has held as under:-

“6. Having heard the parties and on consideration of the materials on record, this Court finds considerable merit in the writ petition. A bare perusal of the impugned notice dated 12.09.2013 issued by the Certificate Officer-cum-SDO, Dumraon, Buxar as well as the requisition dated 04.08.2011 issued under Section 5 of the PDR Act discloses that these have been issued after 11.09.2010, when the husband of the petitioner died. As such, the entire proceedings are rendered illegal and a nullity.”

11. Admittedly even in this case, the continuation of the certificate case against the dead person and issuance of the distress warrant against the petitioners seeking recovery of the amount of Rs. 3,94,00,287/- is without jurisdiction and beyond the period of limitation. Further, it is to be noted that the petitioners have not been substituted in the Certificate Case No. 10/2013-14/181/2001-02 at any point of time till date.



12. Having regard to the above mentioned facts and circumstances and also the law laid down by this Hon’ble Court in the above mentioned cases, the impugned letter bearing Reference No. 141 dated 17.07.2019 issued by the Certificate Officer i.e. Respondent No. 4 herein and the certificate proceedings initiated against the late Pradeep Agrawal and against the petitioners herein in the certificate case bearing Certificate Case No. 10/2013-14/181/2001-02 are hereby quashed. However, it is made clear that this order does not come in the way of the authority for proceedings against the Company for recovery of the amounts due, if any.

13. With the above observations, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

shakir/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2026
Transmission Date	NA

