

(2018) 02 PAT CK 0081

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 13892 Of 2012

Aminur Rashied

APPELLANT

Vs

Branch Manager, Bhumi Vikash Bank

RESPONDENT

Date of Decision : 07-02-2018

Acts Referred:

Citation : (2018) 2 PLJR 121

Hon'ble Judges : Anjana Mishra, J

Bench : Single Bench

Advocate : Md. Helal Ahmad, Ravi Ranjan, Y.V. Giri, Rajesh Prasad Choudhary, Sumit Kumar Jha

Final Decision : Dismissed

Judgement

Heard learned counsel for the petitioner and learned Senior Counsel appearing on behalf of the Bhumi Vikash Bank as well as learned counsel for the State.

The present writ application has been preferred challenging the entire proceedings of the Certificate Case No. 51 of 2011-12 which was issued by the Certificate Officer, Kishanganj.

Learned counsel for the petitioner submits that the entire proceeding which was initiated against the petitioner was bad inasmuch as two earlier

proceedings had been initiated against the father of the petitioner and, thereafter, against the petitioner himself. The said proceedings were not

concluded in view of the fact that requisitionists in those cases were the Bank itself. In the second proceeding, the petitioner had appeared and filed

his objection. Nevertheless, after the death of his father, a fresh proceeding being Certificate Case No. 51 of 2011-12 was initiated against the

petitioner and notices were issued to him under Section 7. The petitioner answered the said objection but on 30.11.2011, the objection petition filed by him was rejected by the Respondent without assigning any cost. Learned counsel for the petitioner submits that simultaneously, the petitioner was also issued bailable warrant of arrest and in pursuance thereof he was taken into custody on 23.04.2012.

It appears from the records of the case that the petitioner was released on 26.04.2012 after the family of the petitioner availed benefit of Golden

Interest Waiver Loan Scheme and after making rest payment and on availing a waiver of Rs. 373121.82, the petitioner was released from custody.

It is submitted by learned counsel for the petitioner that a payment of Rs. 2,42,883/- was made by the petitioner. He further submits that after taking into consideration the fact that the petitioner had been wrongly confined for more than three days in violation of the provision of law, the petitioner is entitled to compensation. Apart from this, he prays that the entire proceedings be declared bad in law and the said case be quashed.

Learned counsel for the State has now filed a show- cause as the earlier contention was that the proceeding by the requisitionists was not valid in the eye of law. The District Certificate Officer was thus made a party in this writ application and pursuant to the orders passed by the Court they have

also appeared in person and have filed show-cause stating that their proceedings are legal and valid and the petitioner was issued show-cause notice

to which he had duly responded. The matter was considered after the requisitionist-the Bank also filed their objections and after noting that the

petitioner had not deposited any amount from the year 2003, the petitioner's objection was rejected and bailable warrant of arrest was issued

against him. The petitioner did not choose to challenge the said order and kept evading the process of the Court and ultimately he was arrested in

connection with the said Certificate Case. It is further submitted by learned counsel for the State that pursuant to his arrest, the petitioner availed the

benefit of the Golden Interest Waiver Loan Scheme and, thereafter, the account of the petitioner was closed with the Bank. The Bank then filed an

application before the District Certificate Officer stating that since the amount has been closed, the proceedings of the entire certificate case be

closed as well.

Learned Senior Counsel for the State, thus, submits that as on date, the proceeding is not in existence and, therefore, there is no question of setting it aside and any order passed, quashing the same would be a nullity in the eye of law and would not have any effect. He further submits that the Branch Manager has provided all the details of the case to the present District Panchayat Raj Officer who has been functioning as the District Certificate Officer, Kishanganj, who has provided the present statement of fact and the affidavit has been brought on record. The delay occasioned in the disposal of the case, is also regretted.

Learned counsel for the State also submits that, in fact, the question of payment of compensation would not arise as the petitioner has already availed the benefit of Golden Interest Waiver Loan Scheme and he cannot be given two benefits, one, by way of compensation and the other by way of waiver of the loan. He thus submits, that the writ application is now devoid of any merit and is fit to be dismissed.

Learned Senior Counsel appearing on behalf of the Bank has also submitted that the petitioner's father has availed the benefit of the loan and consistently defaulted in making payment of the same as a result of which two earlier proceedings had been started, one against the father followed by the one against the petitioner and then finally the present proceedings. The benefit of Golden Interest Waiver Loan Scheme and the loan account of the petitioner with the Bank has now been closed. As such, no fruitful purpose would arrive in entertaining the present writ application.

Having heard learned counsel for the petitioner and learned counsel for the parties, it appears that much water has flown and the petitioner has already availed the benefit of Golden Interest Waiver Loan Scheme and, therefore, the writ application has become more or less infructuous. It is further evident that the petitioner had also not challenged the order dated 30.11.2011 at that point of time when it ought to have been done i.e., after rejection of his show-cause and before his arrest or implementation of the bailable warrant of arrest. It also appears that the petitioner had himself been evading the proceeding as there is nothing on record to show that after issuance of bailable warrant of arrest, the petitioner had appeared before the Certificate Officer to contest the matter and show-cause why such an order dated 30.11.2011 be not implemented.

Under such circumstances, this Court is not inclined to interfere with the proceeding and for the forgoing reasons as stated above, the writ application stands dismissed.

No costs.

The personal appearance of the two functionaries is dispensed with.