
(1984) 05 PAT CK 0015
In the Patna High Court
Case No : CWJC No. 598 of 1979

Chhedi Prasad Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 21-05-1984

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1985) 33 BLJR 50

Hon'ble Judges : Uday Sinha, J;S. Shamsul Hasan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Uday Sinha and S. Shamsul Hasan, JJ.—By this application under Articles 226 and 227 of the Constitution of India, has prayed for By gashing annexure 3 particular, order dated 31.8.76 and annexure-3 the Certificate Officer, Banka, rejected the objection of the petitioner to the realization of the certificate demand. The petitioner did not file any appeal, but went in revision to the ground that no appeal having been filed against the order of the Certificate Officer, no revision lay before him. The petitioner did not move the board of Revenue Act, 1914 and has moved this Court in our writ jurisdiction direct against order of the Certificate Officer.

2. The facts that the petitioner did not avail of the statutory remedies of appeal and revision is sufficient for us to reject this application. Issuance of a writ is discretionary has been reluctant in agitating the matter before appropriate statutory forums. This is completely disincentive for us to issue any writ; the jurisdiction being discretionary, we are not inclined to issue a writ in this case.

3. learned Counsel for the petitioner submitted that the order Certificate Officer is vitiated for the reason that he did not apply his mind to the facts of the case, rather he acted that upon the dictate of the Collector, Bhagalpur. Our attention has been drawn to the order of the Certificate Officer dated 31.8.76. In this order

(Annexure-3) it has been stated before the Certificate Officer that he had asked by the Collector to realise the sum due under the certificate demand. learned Counsel for the petitioner, upon this statement in the order to reject the petitioner's objection. The order of rejection of the objection is, therefore, vitiated. We regret we are unable to accept this contention. The letter of the Collector has not been produced before us. The reference to some communication by the Collector asked the Certificate Officer to take steps for realization of the certificate amount. Every certificate-holder is entitled to request a Certificate Officer that the matter should be expedited and should not be kept hanging. We are, thus, unable to find anything in annexure-3 to indicate that the Certificate Officer acted on the dictate of the Collector.

4. The Certificate Officer applied himself to the objection filed by the petitioner and, in an elaborate order, held that there was no substance in the objection of the petitioner, who was a Mukhiya entrusted with execution of some project. We are at one in the view that the Certificate Officer has taken and we find no case for interference with the order of the Certificate Officer.

5. For the reasons stated above, we find no merit in this application and we dismiss it accordingly. There shall be no order as to costs.