(1998) 02 PAT CK 0025

In the Patna High Court

Case No : C.W.J.C. No. 9964 of 1992

Damodar Prasad Nathani and Another — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

Date of Decision : 20-02-1998

Acts Referred:

Citation : (1999) 1 PLJR 522

Hon'ble Judges : B.N. Agrawal, J

Bench : Single Bench

Advocate : Rameshwar Pd., Amarendra Kumar Sinha and Arun Kumar, for the Appellant; K.P. Yadav and Suresh Kumar, for the Respondent

Judgement

B.N. Agrawal, J.—Heard the parties.

2. This writ application has been filed for quashing certificate Case No. 2 of 1983-84 pending before the District Certificate Officer, Muzaffarpur (Respondent No. 2)

3. It appears that a requisition was sent for realization of dues of Commercial Taxes department on account of sales tax payable by M/s. Shankar Glass Works (P) Ltd. and according to the requisition there were three certificate debtors M/s. Shankar Glass Works (P) Ltd. and the two Petitioners. M/s. Shankar Glass Works (P) Ltd. is a company incorporated under the Indian Companies Act and both the Petitioners are said to be its Directors.

4. Grievance of the Petitioners in this case is that certificate case against them, who are Directors of a Private Limited Company, cannot proceed as the sales tax dues as against the aforesaid company M/s. Shankar Glass Works (P) Ltd. could have been realized from the assets of the company which is a juristic person. In support of his submission, learned Counsel appearing on behalf of the Petitioners has placed reliance upon a Bench decision of this Court in the case of Smt. Sarla Devi Agrawala v. The State of Bihar and Ors. 1979 BBCJ 213 wherein it has been categorically laid down that Directors or shareholders of a company cannot be

proceeded with for realization of due''s against the company which can be realized only from assets of the company which is a juristic person. I find that the present case is squarely covered by the aforesaid decision of this Court. Therefore, I have no option but to hold that certificate proceeding against the Petitioners cannot proceed.

5. Accordingly, this writ application is allowed and the certificate proceeding so far the same relates to the Petitioners, is hereby quashed. It is needless to say that the certificate case shall proceed against the company M/s. Shankar Glass Works (P) Ltd.

6. This writ application is thus disposed of.

