
(2013) 05 JH CK 0073
In the Jharkhand High Court
Case No : WP (C) No. 654 of 2012

Mittan Sana

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 30-05-2013

Acts Referred:

Bihar and Orissa Public Demands Recovery Act, 1914 — Section 9

Citation : (2013) 4 JLJR 122

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rakesh Kumar, for the Appellant;

Judgement

Aparesh Kumar Singh, J.

I.A. No. 3347 of 2013

1. The petitioner has preferred this interlocutory application seeking stay of execution of warrant of arrest issued on 31st March, 2011 against him by the Certificate Officer, Mines-cum-Deputy Director of Mines, Santhal Pargana Circle, Dumka in Certificate Case No. 41/2009/10. According to the petitioner, earlier when the warrant of arrest was being issued and executed he got notice of it and appeared before the Certificate Officer, who put the execution of warrant of arrest in abeyance by an interim order dated 15th April, 2011, which is contained in Annexure-3 to the writ petition. It is submitted on his behalf that a criminal case was also instituted, which was pending in the Court of SDJM, Rajmahal in relation the alleged acts of illegal mining and he had sought time in the certificate proceeding on that ground. It is submitted that thereafter the petitioner has challenged the entire certificate proceedings in the present writ petition on several grounds that the dues are not recoverable as arrears of money under the items prescribed under Schedule-I of the Bihar and Orissa Public Demand Recovery Act, 1914. It is stated on his behalf that there is no case made out against him for contravening the provisions of the Jharkhand

Minor Minerals Concessions Rules, 2004 with respect to extraction of stones from the land of some persons of the adjoining village. Accordingly, the petitioner had sought for quashing of the entire certificate proceedings in the present writ petition including the warrant of arrest issued earlier against him.

2. Learned counsel for the State, on the other hand, submits that the petitioner had sought time after appearing before the Certificate Officer on one pretext or other but has not filed his objection u/s 9 taking all such available plea of law and fact before the concerned authority. It appears that the Certificate Officer seeing the conduct of the petitioner has chosen to execute the warrant of arrest against him, which remained pending for more than two years on account of the interim protection granted by the Certificate Officer himself. He submits that the petitioner should approach the Certificate Officer, who can entertain such questions of law and fact raised by him under the Act of 1914.

3. I have heard counsel for the parties and gone through the relevant materials on record and the facts which are brought on record. It is apparent that the petitioner after issuance of Section 7 notice as also the warrant of arrest appeared before the Certificate Officer and prayed for time on account of pendency of the criminal case in relation to the same alleged act of illegal mining and on his request the execution of warrant of arrest was kept in abeyance by order dated 15th April, 2011. The petitioner, however, chose to sit over the matter without filing his proper objection u/s 9 taking all such plea of law and fact which is available to him. In such circumstances, the Certificate Officer, finding no other alternative remedy, has chosen to issue warrant of arrest against him for realization of dues. It appears from the submission of the parties that the certificate proceeding is still pending before the concerned authority.

4. In such circumstances, the petitioner is directed to appear before the Certificate Officer within a period of three weeks and file his objection u/s 9 of the Act of 1914 taking all such pleas of law and fact and the Certificate Officer shall thereafter proceed in accordance with law taking into account the objection of the petitioner or even otherwise, in case the petitioner fails to file his objection within the aforesaid time. In case the Certificate Officer finds that the petitioner is liable to pay certificate dues or such dues as are determined by the Certificate Officer, he shall thereafter proceed in accordance with law for realization of the same. In the alternative if he finds that the objections of the petitioner are sustainable in law and fact, he may take an appropriate decision in accordance with law for dropping the said proceeding.

5. In view of the aforesaid liberty granted, the execution of warrant of arrest against the petitioner shall remain in abeyance for a period of three weeks from today. This writ petition and I.A. No. 3347 of 2013 stand disposed of.