
(2016) 05 JH CK 0134

In the Jharkhand High Court

Case No : W. P. (C) No. 1966 of 2016

M/s Deepak Petroleum Products

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 19-05-2016

Acts Referred:

Bihar and Orissa Public Demands Recovery Act, 1914 — Section 7
Bihar State Financial Corporation (Recovery of Dues) Regulations, 2002 — Regulation 4(2)
Constitution of India, 1950 — Article 226

Citation : (2016) 3 JCR 628

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : M/s A. K. Sahani, Advocate, for the Petitioner; JC to AAG, for the Respondent-State; Mr. Ashok Kr. Yadav, Advocate, for the Respondent-BSFC

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J.— Heard learned counsel for the parties.

2. Petitioner is aggrieved by issuance of distress warrant in Certificate Case No. 01 of 2006-07 by the respondent no. 2, District Certificate Officer, Bokaro. The requisition for certificate at Annexure-1 under Regulation-4(2) of the Bihar State Financial Corporation (Recovery of Dues) Regulation, 2002 was issued on 14.02.2006 by the Specified Authority, Bihar State Financial Corporation (hereinafter referred to as "BSFC"), Patna for recovery of term loan along with interest due and to be due as arrears of land revenue under Section 32(G) of SFCs Act 1951 totalling Rs. 48,39,949.15 along with Pendent-lite and future interest indicated therein as on 28.02.2005.

3. Counsel for the petitioner submits that there was no service of notice under Section 7 of the Bihar Public Demand Recovery Act, 1914(now Jharkhand) and distress warrant was issued on 13.10.2006 itself by the respondent no. 2. He contends that in absence of any service of notice, no objection could be filed

under Section 9 of the PDR Act, 1914 and now distress warrant again been issued on 27.03.2015. He submits that petitioner is ready and willing to surrender to the jurisdiction of the Certificate Officer and file his objection to the demand/requisition for certificate made by the Specified Authority of BSFC, Patna. However, coercive steps have been taken without any determination in terms of Section 10 of the PDR Act, 1914.

4. Counsel for the respondent-Corporation submits that petitioner been evading appearance even after service of notice and requisition for certificate made in February, 2006 still remains un-executed due to non cooperation of the petitioner till date. Counsel for the Corporation and the State, therefore, oppose the prayer of the petitioner for any interference.

5. I have considered the submissions of the parties in light of the material facts pleaded. The matter was adjourned yesterday at the request of the counsel for the respondent -BSFC in order to seek instruction as the petitioner contended that he is likely to be arrested in execution of the distress warrant. As it appears that requisition for certificate issued by the Specified Authority, BSFC on 14.02.2006 in terms of Section 32(G) of SFCs Act 1951 remains un-executed till date. Petitioner, however on the other hand contended that there is no service of notice upon him after its issuance on 23.05.2006 and Certificate Officer thereafter issued distress warrant as per order dated 13.10.2006. The order dated 13.10.2006, however, records that service of notice under Section 7 of PDR Act, 1914 is attached to the record, but no objection could be filed. However, it further appears that there is no determination of the demand/requisition for certificate by the respondent no. 2, District Certificate Officer, Bokaro. In that sense, issuance of distress warrant is to ensure appearance of the petitioner.

6. Considering the fact that the matter is pending for the last 10 years for execution of demand raised by the Corporation, it would only be proper to direct the petitioner to appear before the Certificate Officer within a period of two weeks from today. Petitioner may file his objection on his appearance within the same time. The respondent no. 2, District Certificate Officer, Bokaro would pass an order within a period of 4 weeks thereafter in terms of Section 10 of the PDR Act, 1914 on the objection of the petitioner taking into account contention of the respondent-BSFC. Dependant upon such determination to be made within a period of four weeks as indicated herein above, the Certificate Officer would proceed to realise outstanding dues from the petitioner in accordance with law.

7. In that view of the matter and on the direction being complied by the petitioner, the impugned order effecting the distress warrant against the petitioner be not given effect to.

8. The writ petition stands disposed of.