

(2019) 12 PAT CK 0260

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 25070 Of 2019

M/S Koshi Rice Mill

APPELLANT

Vs

General Manager And Ors

RESPONDENT

Date of Decision : 13-12-2019

Acts Referred:

Bihar And Orissa Public Demand Recovery Act, 1914 — Section 10, 40, 41, 60

Citation : (2019) 12 PAT CK 0260

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Binod Kumar, Arun Kumar Gupta, S. Raza Ahmad, Alok Ranjan, Shailendra Kumar Singh, Satya Prakash Prashar

Final Decision : Disposed Of

Judgement

Heard Mr. Binod Kumar, learned advocate for the petitioner, Mr. Alok Ranjan for the State, Mr. Shailendra Kumar Singh for the B.S.F.C. and Mr. Satya Prakash Parashar for the F.C.I.

The petitioner is in civil prison for having been proceeded against under the Bihar and Orissa Public Demand Recovery Act, 1914 for recovery of a debt of Rs. 2,20,44,577/-. The objection petition preferred by the petitioner was disposed of by an order passed under Section 10 of the Act. The petitioner never chose to prefer any appeal against the aforesaid order.

In fact, the petitioner had earlier approached this Court vide C.W.J.C. No. 17162 of 2015 which was disposed of on 25.10.2018 holding that a number of times, request was made by the petitioner for adjournment for seeking instructions in the matter. On that occasion, a bench of this Court gave the liberty to the petitioner to seek the remedy which is available to him under the law viz. preferring an appeal under Section 60 of the Act.

Learned counsel for the petitioner submits that a criminal case also has been lodged against him in which he has been granted anticipatory bail. Apart from

this, it is the submission of the petitioner that there is an arbitration clause in the agreement with the Bihar State Finance Corporation which the petitioner wishes to invoke.

The petitioner can avail of such remedies but so far as release from the civil prison is concerned, he has to make out a case under Sections 40 or 41 of the Act.

The certificate amount has yet not been paid.

If the petitioner so desires and considers it expedient, he can approach the Bihar State Food and Civil Supplies Corporation, at whose instance the certificate was issued for any concession in the matter. In that event, if such a petition is filed at the instance of the B.S.F.C., the Collector shall decide whether it would be appropriate to release the petitioner from civil prison.

With the aforesaid direction/observation, the writ petition is disposed of.