
(2020) 02 PAT CK 0282

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1154 Of 2020

Premchandra Singh And Anr

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 20-02-2020

Acts Referred:

Constitution Of India, 1950 — Article 12

Citation : (2020) 02 PAT CK 0282

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Arun Kumar, Rajiv Roy, Raj Nandan Prasad, Kumar Alok

Final Decision : Dismissed

Judgement

The present writ petition has been filed for directing the respondents to pay the price of sugarcane supplied by the petitioners.

The brief facts of the case, according to the petitioners, are that the petitioners are sugarcane growers and they were engaged in supplying sugarcane to Riga Sugarcane Company Limited. It is stated that the aforesaid sugar company entered into an agreement with the respondent Bank to open KCC account in the name of cane growers and to pay the money required by them under assurance given by the sugar company whereafter an account was opened in the name of the petitioner no. 1 on 25.09.2013 in the Bank of India, Riga Branch. It is submitted that the said account was opened for a sum of Rs. 1,94,717/- and the sugar company stood guarantor for the same. The petitioner no. 1 used to supply sugarcane under such assurance of the sugar company and in the year 2018-19 also the sugarcane was supplied , however, a sum of Rs. 1,94,717/- was withheld. It is further submitted that similarly sugar company also stood guarantor for the amount to be given to the petitioner no. 2 and an account was also opened with a limit of Rs. 1,31,000/-. However, despite supply of sugarcane by the petitioner no. 2 as well, he has not been paid its price.

The learned counsel for the State has raised a preliminary objection regarding the maintainability of the present writ petition, as against a private company i.e. Riga Sugar Company Limited, Sitamarhi. It is further submitted that the petitioner would be well advised to approach appropriate forum/ Court for payment of its dues or in the alternative file a money suit before a competent court having civil jurisdiction. The learned counsel for the petitioner has not been able to deny the fact that no Writ can be issued as against a private person/ private company.

I have heard the learned counsel for the parties and perused the materials on record. Admittedly, the present writ petition has been filed primarily for issuance of a direction to the Riga Sugar Company Limited, Sitamarhi to make payment of the dues of the petitioners and even if the prayer of the petitioner to direct the respondent Bank to release the funds in favour of the petitioners, is considered, still the same cannot be allowed without issuing any direction to the private company i.e. Riga Sugar Company Limited, whose concurrence is imperative. In this regard, this Court would like to refer to the judgments rendered by the Hon'ble Apex Court in the case of Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology and others, reported in (2002) 5 SCC 111, the one reported in (2001) 1 SCC 298 (Vst Industries Ltd vs Vst Industries Workers Union & Anr), the one reported in (2003) 4 SC 225 (G. Bassi Reddy vs International Crops Research Institute & Anr.) and the one reported in (2005) 6 SCC 657 (Binny Ltd. & Anr vs V. Sadasivan & Ors) as also the celebrated judgment rendered by the Hon'ble Apex Court in the case of Ajay Hasia and Ors. Vs. Khalid Mujib Sehravardi and Ors., reported in (1981) 1 SCC 722.

Having regard to the law laid down by the Hon'ble Apex Court in the aforesaid judgments, this Court cannot issue writ of mandamus at the instance of the petitioner against a private company like the Riga Sugar Company Limited inasmuch as the aforesaid private company does not fall within the meaning of State, as defined under Article 12 of the Constitution of India. Consequently, the writ petition stands dismissed as not maintainable.