

(2022) 04 PAT CK 0059

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3280 Of 2022

Punam Devi

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 20-04-2022

Acts Referred:

Bihar & Orissa Public Demands Recovery Act, 1914 — Section 7, 9

Citation : (2022) 04 PAT CK 0059

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Anurag Saurav, Gyan Prakash Ojha

Final Decision : Disposed Of

Judgement

Petitioner has prayed for the following relief(s):-

"I. For quashing of notice dated 19.11.2021 issued under Section 7 of the P.D.R.Act by Certificate Officer, Sheikhpura whereby and whereunder Certificate Officer had directed the petitioner to file an objection before Certificate Officer within a period of 30 days against the demand of an amount of Rs. 5,08,800/- under P.D.R.Act, 1914 vide order dated 08.10.2012 passed by Collector, Sheikhpura.

II. For quashing of entire proceeding of recovery case no. 06 of 2012-13 whereby and whereunder Certificate Officer, Sheikhpura had issued show cause under section 7 of the P.D.R.Act to the petitioner and the said proceeding is against the law on the fact that the petitioner had deposited the entire royalty amount against their mining lease for Minor Mineral agreement with Respondent no. 2 and the 5th year royalty not paid as the mining lease agreement get cancelled by the respondent authorities on prior to 5th years which Respondents were claiming.

III. For disposal of representation filed before Respondent no. 2 and 3 against the order dated 08.10.2012 passed by Respondent no. 2 whereby and

whereunder the case under P.D.R.Act has been instituted on the basis of a wrong demand issued by Respondent No. 2.

IV. For consideration and disposal of objection file by the petitioner under Section 9 of P.D.R.Act in pursuance to the previous show cause notice dated 13.09.2013.

V. For any other relief or reliefs as prayed.”

It is not in dispute that petition under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as “the Act”) is pending consideration/petitioner intends to file before the appropriate authority.

Learned counsel for the parties jointly pray that the instant petition be disposed of with direction to the appropriate authority to consider and decide the same expeditiously.

Learned counsel for the State states that the appropriate authority shall consider and decide the petition filed/ to be filed by the petitioner under Section 9 of the Act positively within a period of two months from the date of appearance of the petitioner before him along with a copy of this order and the issue of limitation shall not come in the way of decision on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall appear in the office of the appropriate authority on 19.05.2022 along with a copy of this order, on which date documents in support of the petition shall be filed, or else file a fresh petition under Section 9 of the Act.

(b) The appropriate authority shall consider and dispose of the petitioner’s petition expeditiously, by a reasoned and speaking order, preferably within a period of two months from the date of appearance of the petitioner before him and till then no coercive steps be taken against the petitioner;

(c) The authority shall also examine as to whether the amount in question falls within the definition of public demand or not;

(d) Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(e) Order assigning reasons shall be supplied to the parties;

(f) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(h) Liberty reserved to the petitioner to challenge the order passed by the

appropriate authority, before the appropriate forum, if so required and desired.

(i) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.