
(2019) 12 JH CK 0097
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1692 Of 2013

Sitaram Mehta

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 06-12-2019

Acts Referred:

Bihar And Orissa Public Demands Recovery Act, 1914 — Section 7, 9
Constitution Of India, 1950 — Article 226

Citation : (2019) 12 JH CK 0097

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Mayank Mohit Sinha, Atanu Banerjee, D.C. Mishra

Final Decision : Disposed Of

Judgement

This writ petition is under Article 226 of the Constitution of India whereby and whereunder the orders dated 16.10.2009, 25.11.2011 and 03.03.2012

passed by the Certificate Officer, Mining, Northern Chhotanagpur Division, Hazaribagh in Certificate Case No.14/2009-10 has been sought to be quashed.

The sole ground agitated by the petitioner in this writ petition is that the certificate officer has proceeded without valid service of notice which has

been issued as per Section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as the Act, 1914).

This Court vide order dated 06.11.2019 has passed an order on the basis of the aforesaid submission of the learned counsel for the petitioner directing

the Certificate Officer, Mining, Northern Chhotanagpur Division, Hazaribagh to remain physically present along with the original record of Certificate

Case No.14/2009-10. In pursuance to the aforesaid order Mr. Shankar Kumar

Sinha at present working as Dy. Director Mines-cum-Certificate

Officer, Hazaribagh is present in the Court along with the original record.

Mr. Atanu Banerjee, learned Sr. SC-III has produced the original record for its perusal to the Court. He further submits that the record reflects about

the service of notice which has been served upon one Smt. Laxmi Devi who according to the respondent authorities is the wife of the petitioner.

This Court after perusal of the record has found therefrom that a notice said to have been served upon Smt. Laxmi Devi who according to the

respondent authorities is the wife of the petitioner but the said aspect of the matter has seriously been disputed by the learned counsel for the

petitioner by submitting that the name of his wife is not Smt. Laxmi Devi.

Mr. Atanu Banerjee, learned Sr. SC-III has further submitted in presence of the Officer present in the Court that the sole question agitated in this writ

petition is about providing an opportunity of hearing, i.e., an objection required to be filed in pursuance to the provision of Section 9 of the Act, 1914.

He further submits that now the petitioner is having knowledge about the pendency of the said proceeding, therefore, the petitioner may be directed to

file an objection under Section 9 of the Act, 1914 for its consideration and taking decision in accordance with law.

Upon such submission, Mr. Mayank Mohit Sinha, learned counsel for the petitioner has fairly submitted that there is no difficulty if such opportunity

would be granted to the petitioner.

This Court in view of such submissions and considering the fact that the Act, 1914 provides provision for recovery of public demand in a case if such

requisition is being made by the requisitioning authority after declaration of the money as public demand but before doing so, an objection is required to

be filed under Section 9 of the Act, 1914 and to provide such opportunity, a notice is required to be issued under Section 7 of the Act, 1914.

Herein, the notice under Section 7 of the Act, 1914 has already been issued but the service of the said notice has been disputed by the petitioner.

This Court, in the ends of justice, deem it fit and proper to provide an opportunity of hearing to the petitioner by filing an objection as required to be

filed under Section 9 of the Act, 1914.

This Court since is providing an opportunity to file an objection as required to be filed under Section 9 of the Act, 1914, therefore, the impugned orders

dated 25.11.2011 and 03.03.2012 are required to be quashed as because so long that orders are in operation, the fresh order cannot be passed.

Accordingly, the orders dated 25.11.2011 and 03.03.2012 are quashed.

Order dated 16.10.2009 is not being interfered with as because the same is the notice under Section 7 of the Act, 1914.

In consequence thereof, it is open for the petitioner to file objection as required to be filed under Section 9 of the Act, 1914 within a period of three

weeks from the date of receipt of copy of the order, if such objection will not be filed within the aforesaid period the authority shall proceed in

accordance with law.

The concerned respondent is directed to take decision in accordance with law upon such objection within a further period of four weeks from the date

of receipt of such objection.

It is made clear that this Court has not exercised its mind on the merit of the claim of the petitioner and the concerned authority is to take decision

strictly in accordance with law.

Personal appearance of Mr. Shankar Kumar Sinha at present working as Dy. Director Mines-cum-Certificate Officer, Hazaribagh is dispensed with.

Court Master is directed to return the original record to Mr. Atanu Banerjee, learned Sr. SC-III and the original record has been returned and

received by Mr. Atanu Banerjee, learned Sr. SC-III.

Mr. Atanu Banerjee, learned Sr. SC-III has also returned the original record to the Officer who is present in the Court.

In view thereof, the writ petition stands disposed of.