
(2007) 04 PAT CK 0158
In the Patna High Court
Case No : CWJC No. 14418 of 2003

Surendra Yadav

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 27-04-2007

Acts Referred:

Bihar and Orissa Public Demands Recovery Act, 1914 — Section 9

Citation : (2007) PLJR 44

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Heard counsel for the petitioner and the State. Petitioner has filed this application for quashing the entire certificate proceeding of District Certificate Case No. 2 of 2001 pending in the court of Addl. Collector-cum-Sr. District Certificate Officer, West Champaran, Bettiah for recovery of Rs. 94,250/-.

2. Certificate case has been proceeded for recovery of Rs. 94,250/- which is said to be rent collected by the petitioner from Ramnagar Daily Market. For settlement of Ramnagar Daily Market a bid was held in presence of Collector, West Champaran Bettiah. Petitioner being the highest bidder for settlement of 2000-2001, he deposited Rs. 40,000/- and he made a request that rest of the money will be deposited in installments. Thereafter the respondent did not execute the agreement in favour of the petitioner. No parwana was issued in his favour as such petitioner's case is that he never collected any rent from the daily market in spite of the settlement made in his favour. Petitioner made several representation to the authorities concerned for executing the agreement in his favour for issuance of parwana or for refund of money which was deposited by him including the earnest money, but no response from the side of the authorities. Finally Certificate case No. 2 of 2001 was initiated against the petitioner for realisation of the rent supposed to have been collected by the petitioner on account of settlement of Ramnagar Daily market. Petitioner filed his

objection u/s 9 of the Bihar and Orissa Public Demand Recovery Act, but after expiry of 30 days which is the statutory time for filing objection u/s 9 of the Public Demand Recovery Act. In his objection the petitioner also claimed for not submitting his show cause within the statutory period. In spite of this fact objection filed by the petitioner has been rejected by the Certificate Officer and warrant of arrest has been issued against him. In his objection u/s 9 of the P.D.R. Act he raised objection regarding the maintainability of the certificate proceeding. Since the objection filed by the petitioner was not considered, he having left with no option has filed this writ application.

3. In the counter affidavit there is averment that no agreement was executed in favour of the petitioner on account of settlement or any Parwana was issued in his favour. It has also been explained that in case of non execution of agreement and non issuance of Parwana why the certificate proceeding has been initiated for realisation of rent which is proposed to have been collected by him. In the given circumstances the order dated 18.2.2002 passed by the Additional Collector-cum-Sr. District Certificate Officer, West Champaran Bettiah in Certificate case No. 2 of 2001 is quashed. This application is allowed. The Certificate Officer is directed to entertain objection filed by the petitioner u/s 9 of the Public Demand Recovery Act and proceed in the matter in accordance with law.