
(2021) 02 JH CK 0154

In the Jharkhand High Court

Case No : Writ Petition(C) No. 2429, 2439 Of 2013

Triloki Pandey And Ors

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 18-02-2021

Acts Referred:

Bihar and Orissa Public demand Recovery Act, 1914 — Section 7, 9

Citation : (2021) 02 JH CK 0154

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Kanchan Kumari, Jagdeesh

Final Decision : Disposed Of

Judgement

1. With the consent of the parties, hearing of the matter has been done through video conferencing and there is no complaint whatsoever regarding audio and visual quality.
2. Both these writ petitions are under Article 226 of the Constitution of India whereby and whereunder two notices dated 16.03.2013 issued under Section 7 of the Bihar and Orissa Public demand Recovery Act, 1914 against the writ petitioners initiating certificate proceeding being Certificate Case No. 4 of 12-13 [W.P.(C) No. 2429 of 2013] and Certificate Case No. 5 of 12-13 [W.P.(C) No. 2439 of 2013] claiming Rs.6,29,904/- as principal and interest amount as mentioned in view of appendix attached to the notice along with the interest @ 12% from the date of filing of proceeding, have been challenged.
3. Ms. Kanchan Kumari, learned counsel appearing for the petitioners in both these writ petitions, has submitted that against the notice issued under

Section 7 of the Bihar and Orissa Public demand Recovery Act, 1914 (hereinafter referred to as the Act, 1914) to which response has also been filed

by the Requisitioning Authority wherein at paragraphs 9 to 14 it has been contended that the requisition for recovery of demand, by way of public

demand, has been made in great haste.

She further submits that from going through the contention raised by the Requisitioning Authority in the response to the objection petition filed under

Section 9 of the Act, 1914, as has been appended to supplementary affidavits filed on behalf of the writ petitioners dated 07.01.2021, it would be

evident that the amount which has been requisitioned for recovery under the Act, 1914 is itself being doubted by the Requisitioning Authority.

She further submits that although the said response has been filed way back in the year 2013 but it is still not adjudicated upon by the Certificate

Officer. She also raised the issue of jurisdiction of the Requisitioning Authority.

4. Mr. Jagdeesh, learned A.C. to S.C.-I, appearing for the respondent State of Jharkhand, has submitted that the writ petitions may be disposed of by

directing the Certificate Officer to decide the objection petition filed by the writ petitioners under Section 9 of the Act, 1914 and while deciding the

said objection, the Certificate Officer will consider the contention raised in the objection petition vis-à-vis the response which has been filed by the

Requisitioning Authority, as has been appended to the supplementary affidavit dated 07.01.2021.

5. In response, Mr. Kanchan Kumari, learned counsel appearing for the writ petitioners, submits that she may also be given liberty to raise the issue of

jurisdiction of the Requisitioning Authority.

6. This Court, after having heard learned counsel for the parties and taking into consideration the aforesaid submission, is of the view that since the

writ petitioners have already made objection under Section 9 of the Act, 1914 of notice under Section 7 of the Act, 1914, therefore, it would not be

proper to exercise the extra ordinary jurisdiction conferred to this Court at this stage, rather it would be appropriate to direct the Certificate Officer to

decide the objection in accordance with law after taking into consideration the averments made by the writ petitioners in the objection petition vis-à-vis

the response thereto having been filed by the Requisitioning Authority as also if the question of jurisdiction of Requisitioning Authority will be

raised, that will also be dealt with by the Certificate Officer.

7. Accordingly, both these writ petitions are disposed of directing the Certificate Officer to decide the objection petition after providing an opportunity

of hearing to the parties preferably within a period of two months from the date of receipt of copy of this order.

It is made clear that the Court has not applied its mind on the merit of the issue. The Certificate Officer has to decide the matter strictly in accordance

with law and the material available on record.

8. Both the writ petitions are disposed of. Consequently, I.A. No.6308 of 2020 and I.A. No.6309 of 2020 also stand disposed of.