
(2022) 01 JH CK 0001
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1948 Of 2013

Wrecko Glass Industries	Vs	APPELLANT
State Of Jharkhand And Others		RESPONDENT

Date of Decision : 06-01-2022

Acts Referred:

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

Citation : (2022) 01 JH CK 0001

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Deepak Kumar, Rahul Saboo

Final Decision : Disposed Of

Judgement

Sujit Narayan Prasad, J

1. The matter has been heard through video conferencing.
2. This writ petition, under Article 226 of the Constitution of India, has been filed for quashing the entire proceeding of Certificate Case No. 362 of 2000 instituted against the petitioner on the requisition of Assistant Commissioner, Commercial Tax, Koderma and pending in the Court of Certificate Officer-cum-Sub Divisional Officer, Koderma and; further for quashing of order dated 12.12.2012 passed by Certificate Officer-cum-Sub Divisional Officer, Koderma by which the bailable warrant was issued against the writ petitioner.
3. Mr. Deepak Kumar, learned counsel appearing for the petitioner has submitted by taking the ground that bailable warrant/distress warrant was issued by the Certificate Officer even though objection under Section 9 of the Public Demands Recovery Act, 1914 was filed but the same has not yet

been decided.

4. This Court after having heard learned counsel for the parties on the last occasion directed the State counsel to come up with the entire record

pertaining to Certificate Case No. 362 of 2000 as also directed for personal appearance of Certificate Officer on the next date of hearing.

5. In pursuance to the aforesaid order, today Mr. Moquim Ahmad, at present discharging duty as Certificate Officer, Koderma has appeared through

on-line mode along with original record of Certificate Case No. 362 of 2000.

6. Mr. Rahul Saboo, learned S.C. I appearing for the respondents-State, on perusal of original record of Certificate Case No. 362 of 2000, has

submitted that objection filed by the petitioner as under Section 9 of the Public Demands Recovery Act, 1914 has not yet been decided.

7. The Certificate Officer, upon the query put forth by this Court, has submitted that issuance of distress warrant/bailable warrant without deciding the

objection made under Section 9 of the Public Demands Recovery Act, 1914 cannot be said to be a correct proceeding.

8. This Court, after having heard learned counsel for the parties, is of the view that since the writ petitioner had filed objection as under Section 9 of

the Public Demands Recovery Act, 1914, but, the same has not been decided as yet, as per the record of Certificate Case No. 362 of 2000. As such

the issuance of distress warrant/bailable warrant cannot be said to be justified being not in consonance with the statutory provision for the reason that

when a notice is being issued in exercise of power conferred under Section 7 of the Public Demands Recovery Act, 1914, which is for the purpose to

provide an opportunity of hearing to the proposed certificate debtor. The proposed certificate debtor is required to file objection as under Section 9 of

the Public Demands Recovery Act, 1914 for its consideration in accordance with law, it is only after disposal of the aforesaid objection the subsequent

action is to be taken, if required, by the Certificate Officer.

9. Admittedly, in the instant case the objection filed by the petitioner as under Section 9 of the Public Demands Recovery Act, 1914 has not yet been

decided. Therefore, the issuance of distress warrant/bailable warrant vide order dated 12.12.2012 cannot be said to be in accordance with law.

Accordingly, the same is hereby quashed and set aside.

10. In consequence thereof, the Certificate Officer concerned is directed to

decide the objection filed by the writ petitioner under Section 9 of the Public Demands Recovery Act, 1914, in accordance with law, preferably within a period of two months from the date of receipt/production of copy of this order.

11. With the aforesaid observations and directions, the writ petition stands disposed of.

12. In consequence of the disposal of the writ petition, pending Interlocutory Application being I.A. No. 1589 of 2019 stands disposed of.

13. Let original record of Certificate Case No. 362 of 2000 be handed over to the Certificate Officer.

14. Personal appearance of Certificate Officer is dispensed with.