

Binod Kumar Yadav Vs. State of Bihar

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Court : Patna

Decided On : Sep-28-2002

Judge : Aftab Alam, J.

Acts : Bihar and Orissa Public Demands Recovery Act, 1914 - Sections 3(6)

Appeal No. : C.W.J.C. No. 7890 of 2002

Appellant : Binod Kumar Yadav

Respondent : State of Bihar

Advocate for Pet/Ap. : Mr. Birendra Prasad Verma

Disposition : Petition dismissed

Judgement :

Aftab Alam, J.

1. Heard Mr. Birendra Prasad Verma, Counsel for the petitioner.
2. The petitioner had taken an advance for construction of a RCC road bridge. It is undeniable that he did not complete the construction within the stipulated time. In the Ekrarnama signed by him there was a stipulation that on failure to complete the work, he would be liable to refund the amount taken as advance, failing which the concerned authority would take legal steps for the realisation of the dues.

3. It was in those circumstances that a proceeding under the Public Demands Recovery . Act was initiated against the petitioner in Certificate Case No. 4/2001-2002 before the Sub-Divisional Certificate Officer, Phulparas.

4. As the petitioner did not make payment of the certificate amount he was sent to jail on 27.1.2002 from where he was finally released on 28.8.2002.

5. Mr. Verma submitted that the realisation of the money advanced to the petitioner for construction of the bridge did not come within the meaning of Public Demands and, therefore, the entire proceeding against the petitioner was without jurisdiction.

6. I am unable to accept the submission. Sub-section (6) of Section 3 of the Bihar and Orissa Public Demands Recovery Act, defines 'public demand' as meaning any arrear or money mentioned or referred to in Schedule I, and includes any interest which may, by law, be chargeable thereon upto the date on which a certificate is signed under Part II.

Entry 8-A which was added in Schedule I by Bihar Act, 20 of 1993 reads as follows:

'8-A. Any outstanding loans and advanced payable to State Government or to a Department or official of the State Government by any body whatsoever.'

7. I am, therefore, satisfied that the money advanced to the petitioner was clearly covered by the definition of Public demand and the Certificate case was rightly instituted for its recovery.

8. Mr. Verma next submitted that under the provisions of the Act the petitioner could be held in custody for a period not exceeding six months but in this case the petitioner was released from detention after seven months. His detention for the last one month was, therefore, clearly illegal and he was, therefore, entitled to compensation for illegal detention.

9. In this regard I would not like to and I would leave it to the petitioner to raise his claim for compensation before a suitable forum in a properly instituted proceeding.

10. No relief can be granted to the petitioner in this writ petition. It is accordingly dismissed.

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