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**SooperKanoon Citation :** [sooperkanoon.com/133488](http://sooperkanoon.com/133488)

**Court :** Patna

**Decided On :** Jan-11-1999

**Judge :** Radha Mohan Prasad, J.

**Appeal No. :** C.W.J.C. No. 2539 of 1998

**Appellant :** Birendra Kumar Mehta

**Respondent :** State of Bihar and ors.

**Disposition :** Petition Allowed

**Judgement :**

**Radha Mohan Prasad, J.**

1. The grievance of the petitioner in this writ petition appears to be that without deciding his objection under Section 10 of the Bihar & Orissa Public Demands Recovery Act on interim order has been passed directing him to deposit Rs. 30,000/-.

2. It appears that the petitioner went in revision which was rejected on the ground of his not depositing 40% of the certificate amount it is alleged that thereafter the Certificate Officer has proceeded to take coercive action for realizing 40% of the amount.

3. A counter affidavit has been filed on behalf of Respondent No. 2 State Bank of India, Jainagar Branch. In the counter affidavit, it is not disputed that coercive action has been taken against the petitioners for his not depositing 40% of the amount. However, none has appeared on behalf of the Respondent Bank.

4. Under the aforementioned circumstances. I failed to appreciate as to how the Certificate Officer can take coercive action against the petitioner without taking final decision under Section 10 of the Act. It is true that under Section 62 of the Bihar & Orissa Public Demand Recovery Act, before revision can be entertained, the certificate debtor is required to deposit 40% of the certificate dues at the time of its filing but where the certificate debtor has disputed the certificate claim and the Certificate Officer has not determined the certificate dues, in my opinion, he will not be required to make deposit as per the first proviso to Section 62 of the Act, Section 62 of the Act gives a remedy against any order passed by the Certificate Officer, Assistant Collector, or Deputy Collector under the Act. It does not restrict to only final order and according to its first proviso one is required to deposit 40% of the certificate dues before this revision petition can be entertained. Thus, where the certificate dues has not yet been determined, there cannot be any question of deposit of 40% from the person preferring revision against any order passed by the Certificate Officer, Assistant Collector or Deputy Collector.

5. Accordingly, the writ petition is allowed to the extent that the matter is remitted back to the Revisional Authority for consideration of the revision filed by the petitioner against the order dated 10.4.1996 the District Certificate Officer, Madhubani, no merits in accordance with law.