IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.662 of 2024
In
Civil Writ Jurisdiction Case No.4540 of 2023

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The District Manager Food And Civil Supply Corporation, Aurangabad (Bihar State Food and Civil Supplies Corporation Ltd.,-Real Name)

... ... Appellant/s

Versus

1. Krishna Devi Wife of Late Uma Shankar Thakur Resident of Village-Chhakiya, P.S. Tisiauta, District- Vaishali.
2. Sanjeev Kumar Son of Late Uma Shankar Thakur Resident of Village-Chhakiya, P.S. Tisiauta, District- Vaishali.
3. Rajeev Ranjan Son of Late Uma Shankar Thakur Resident of Village-Chhakiya, P.S. Tisiauta, District- Vaishali.
4. Naveen Kumar Son of late Uma Shankar Thakur, Resident of Village Chhakiya P.S. Tisiauta, District Vaishali.
5. The State of Bihar
6. The District Magistrate Cum Collector, Aurangabad.
7. The District Supply Officer Aurangabd.
8. The District Certificate Officer, Aurangabad.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Shailendra Kumar Singh, Advocate
For the Respondent/s	:	Mr.Dhananjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RANJAN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 25-06-2026

Heard learned counsel for the parties.

2. The present *intra court* appeal has been preferred against the order dated 02.05.2024 passed in C.W.J.C. No. 4540 of 2023, whereby the writ petition preferred by the writ petitioners (respondent No. 1 to 4 herein) came to be allowed.

3. The brief facts of the present case are that the husband of writ petitioner no. 1 (respondent no.1 herein) was appointed as Incharge Purchase Centre under Haspura Block in the year 2012 for procurement of paddy from farmers. He procured 92,976.23 quintals of paddy. It is alleged that he made available only 92,256.87 quintals of the procured paddy, resulting in a shortage of 719.36 quintals.

4. Consequently, a certificate proceeding, being Certificate Case No. 15 of 2013-14, was initiated on 29.07.2013 against the husband of writ petitioner no. 1 (respondent no.1 herein) for recovery of the alleged loss. During the pendency of the proceeding, he died on 29.10.2014.

5. Thereafter, a letter dated 16.08.2022 was issued seeking recovery of Rs. 27,04,433/- from the writ- petitioners, who are the legal heirs of the deceased. Aggrieved thereby, the petitioners filed the writ petition, which was allowed by the learned Single Judge by order dated 02.05.2024, the relevant part of the said order reads as follows:

> *4. In this particular case as seen from the record, the initiation of the certificate proceedings are after a lapse of more than nine years from the date of death of the husband of the petitioner No. 1.*
> *5. Admittedly, the period of limitation as prescribed under Section 11 of the Bihar & Orissa Public Demands Recovery Act, 1914 and also as per Article*

120 of the Limitation Act, 1963 is only ninety days.

6. Having regard to the above settled legal position, the writ petition is allowed and notice before the certificate officers is quashed."

6. Learned counsel for the appellant submits that the learned Single Judge erred in allowing the writ petition without properly appreciating the facts brought on record in the counter affidavit and the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914 (for brevity 'the Act').

7. It is submitted that the certificate proceeding was validly initiated against the original certificate debtor during his lifetime and remained pending. Upon his death, notices were issued to his legal heirs in continuation of the pending proceeding. Referring to Section 52 of the Act, it is submitted that a certificate proceeding can be continued against the legal heirs for realization of the public demand from the estate of the deceased certificate debtor.

8. Learned counsel for the appellant further submits that the original certificate debtor had already been served with notice under Section 7 of the Act and had filed an objection under Section 9 thereof. Pursuant to the order passed by this Court in C.W.J.C. No. 2523 of 2014, the Certificate Officer was required to consider the objection and proceed in accordance

with law. Therefore, the notices issued to the legal heirs were merely in continuation of the pending certificate proceeding and did not amount to initiation of a fresh proceeding. It is thus submitted that the impugned judgment proceeds on an incorrect appreciation of the factual and legal position and is liable to be set aside.

9. Per contra, learned counsel appearing on behalf of the respondents/writ petitioners submits that the learned Single Judge has rightly interfered with the recovery proceedings initiated against the petitioners. It is submitted that the husband of writ-petitioner no. 1 had died on 29.10.2014 and, after a lapse of several years, the authorities sought to recover the alleged dues from the legal heirs without following the procedure prescribed under law.

10. It is further submitted that the learned Single Judge, upon consideration of the facts and materials available on record, rightly granted relief to the petitioners and no error, either on facts or in law, has been committed warranting interference by this Court in exercise of its appellate jurisdiction.

11. The limited issue which arises for consideration in the present appeal is whether the learned Single Judge was

justified in interfering with the action of the appellant-Corporation in seeking recovery of the alleged dues from the legal heirs of the deceased certificate debtor and whether the impugned judgment warrants interference in exercise of our intra-court appellate jurisdiction.

12. We have heard learned counsel for the parties and perused the materials available on record.

13. The facts are largely undisputed. The certificate proceeding, being Certificate Case No. 15 of 2013-14, was initiated on 29.07.2013 against the husband of writ- petitioner no. 1(respondent no.1 herein) on the allegation of shortage of 719.36 quintals of paddy. During the pendency of the proceeding, the original certificate debtor died on 29.10.2014. It is also not in dispute that thereafter no effective step was taken for continuation of the proceeding against the legal representatives for a considerable period and the impugned communication seeking recovery from the writ petitioners came to be issued only in the year 2022.

14. At this juncture, it would be apposite to refer to Section 52 of the Bihar and Orissa Public Demands Recovery Act, 1914, which reads as under:

> *52. Procedure on death of certificate-debtor. - (1) Where certificate-debtor dies before the certificate*

has been fully satisfied, the Certificate Officer may, after serving upon the legal representative of the deceased a notice in the prescribed form proceed to execute the certificate against such legal representative and the provisions of this Act shall apply as if, such legal representative were the certificate debtor and as if such notice were a notice under Section 7:

Provided that where the certificate is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Certificate Officer executing the certificate may, of his own motion or on the application of the certificate-holder compel such legal representative to produce such accounts as the Certificate Officer thinks fit.

(2) for the purposes of this Section, property in the hands of a son or other descendant which is liable under Hindu Law for the payment of the debt of a deceased ancestor, in respect of which a certificate has been filed, shall be deemed to be property of the deceased which has come to the hands of the son or other descendant as his legal representative."

15. A plain reading of the aforesaid provision makes it manifest that the statute merely enables continuation or execution of a certificate proceeding against the legal representatives of a deceased certificate debtor. The liability fastened upon the legal representatives is not personal but is expressly restricted to the extent of the estate inherited from the

deceased. The provision, therefore, neither creates an independent liability against the legal heirs nor authorises the Certificate Officer to proceed against them dehors the procedure established by law.

16. The reliance placed by the appellant on Section 52, in our considered opinion, is misconceived. The provision undoubtedly empowers the Certificate Officer to continue the proceeding against the legal representatives; however, such power is required to be exercised in accordance with law and within a reasonable period. Section 52 cannot be construed as conferring an unfettered or perpetual authority upon the State to revive proceedings against the legal heirs after remaining inactive for years together.

17. The principal contention advanced on behalf of the appellant is that in view of Section 52 of the Bihar and Orissa Public Demands Recovery Act, 1914, the certificate proceeding could validly continue against the legal representatives of the deceased certificate debtor. There can be no quarrel with the proposition that the death of a certificate debtor does not automatically terminate a pending certificate proceeding and that, in an appropriate case, proceedings may be continued against the legal representatives to the extent of the

estate inherited by them. However, the existence of such power does not answer the question involved in the present case.

18. Further, it would also be relevant to refer to Section 11 of the Bihar and Orissa Public Demands Recovery Act, which reads as follows:

> *"11. Power to amend certificate by addition, omission or substitution of parties. - Subject to the law of limitation the Certificate Officer may at any time amend a certificate by the addition, omission or substitution of the name of any certificate-holder or certificate-debtor or by the alteration of the amount claimed therein:*
>
> *Provided that when any such amendment is made a fresh notice and copy shall be issued as provided in Section 7."*

19. The aforesaid provision empowers the Certificate Officer to amend a certificate by addition, omission or substitution of parties. However, the said power is expressly made "subject to the law of limitation", thereby indicating that the legislature never intended such power to be exercised irrespective of limitation. The expression "subject to the law of limitation" necessarily requires the Certificate Officer to act within the period prescribed by the applicable law of limitation.

20. The learned Single Judge has held that the applicable limitation under Article 120 of the Limitation Act is

ninety days. Even otherwise, irrespective of the applicability of Article 120, the admitted delay of nearly eight years in initiating proceedings against the legal representatives remains wholly unexplained. Such inordinate delay cannot be countenanced in law.

21. The issue here is not the existence of power but the manner and time within which such power was exercised. It is a settled principle of law that even where a statute does not prescribe a specific period of limitation, statutory powers are required to be exercised within a reasonable period. In ***State of Punjab v. Bhatinda District Cooperative Milk Producers Union Ltd.,*** reported in ***(2007) 11 SCC 363***, the Hon'ble Supreme Court observed that in the absence of a prescribed limitation, jurisdiction must be exercised within a reasonable period. The relevant part of the said order reads as follows:

> ***"18.*** *It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors."*

22. Again, in ***Santoshkumar Shivgonda Patil v. Balasaheb Tukaram Shevale,*** reported in ***(2009) 9 SCC 352***, the Hon'ble Supreme Court observed that settled matters ought

not to be reopened after a long lapse of time and that statutory powers cannot be exercised after inordinate delay. The relevant part of the said order reads as follows:

> ***"11.** It seems to be fairly settled that if a statute does not prescribe the time-limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein."*

23. Applying the aforesaid principles to the facts of the present case, we find that the original certificate debtor died on 29.10.2014. The appellant has not brought on record any material to show that prompt steps were taken for continuation of the proceeding against the legal representatives immediately thereafter. On the contrary, the record reveals that the recovery notice against the writ petitioners was issued only in the year 2022, nearly eight years after the death of the original certificate debtor. No satisfactory explanation has been furnished for such prolonged inaction.

24. It is equally well settled that the liability of legal

representatives is not personal but representative in character and is confined to the estate inherited by them from the deceased. Proceedings against legal representatives, therefore, are required to be pursued strictly in accordance with law and within a reasonable period. Section 52 of the Act merely enables continuation of proceedings against the estate of a deceased certificate debtor; it cannot be interpreted as conferring an unrestricted or perpetual authority upon the State or its instrumentalities to proceed against legal heirs at any point of time irrespective of delay.

25. In the facts of the present case, the prolonged silence on the part of the authorities for several years after the death of the original certificate debtor and the subsequent attempt to recover the amount from his legal heirs in the year 2022 cannot be said to be a valid exercise of statutory power. The delay is not only substantial but remains wholly unexplained.

26. Upon an independent examination of the record, we are, therefore, of the considered opinion that the impugned judgment does not suffer from any infirmity warranting interference by this Court. The appellant has not been able to demonstrate any error of law, perversity of finding, or

misappreciation of the material on record which may justify interference in an intra-court appeal.

27. Accordingly, the appeal is devoid of merit and is dismissed.

28. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Ranjan Kumar Jha, J)

Sujit/-

AFR/NAFR	AFR
CAV DATE	NA
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