

**(2021) 12 PAT CK 0053**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 10462 Of 2017

Sunil Kumar Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

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**Date of Decision:** Dec. 21, 2021

**Acts Referred:**

- Bihar & Orissa Public Demands Recovery Act, 1914 - Section 9, 10

**Hon'ble Judges:** Rajan Gupta, J; Mohit Kumar Shah, J

**Bench:** Division Bench

**Advocate:** Kanhaiya Pandey

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### **Judgement**

Heard learned counsel for the parties.

Proceedings were initiated against the petitioner under Bihar & Orissa Public Demands Recovery Act, 1914. The stand of the petitioner is that in

terms of Section 9 of the 1914 Act, he filed his objections before the District Certificate Officer, Rohtas, Sasaram. The Authority thereafter had to

proceed in terms of the procedure prescribed in Section 10 of the 1914 Act. The said provision is reproduced below for ready reference:

â€œ10. Hearing and determining of such petition. - The Certificate Officer in whose office the original certificate is filed shall hear the petition,

take evidence (if necessary) and determine whether the certificate-debtor is liable for the whole or any part of the amount for which the certificate

was signed; and may set aside, modify or vary the certificate accordingly:

Provided that if the Certificate Officer is not the Collector, and considers that the petition involves a bonafide claim of right to property, he shall refer

the petition to the Collector for orders, and the Collector, if he is satisfied that a bonafide claim or right of property is involved, shall make an order cancelling the certificate.â€

According to the petitioner, without complying with the aforesaid provision, the petitioner was taken in custody and confined to civil prison. In the counter affidavit filed on behalf of the State, no clear stand is forthcoming.

Under the circumstances, we intend to dispose off this petition with the direction that in case the stand of the petitioner is correct that he has been

taken in custody without adhering to the procedure prescribed in Section 10 of the 1914 Act, he shall be released forthwith.

It will be open to the Certificate Officer thereafter to continue with the proceedings as per law.