

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11155 of 2015

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Ram Chandra Prasad, son of Biswanath Sah, R/o village-Amra, Police
Station-Sasaram, District-Rohtas

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Forest Department,
Government of Bihar, Patna
2. The Chief Conservator of Forest, Bihar, Patna
3. The District Magistrate, Rohtas , Sasaram
4. The Authorised Officer-cum- Divisional Forest Officer, Rohtas ,
Sasaram
5. The District Forest Officer, Rohtas, Sasaram
6. The Range Officer, Sasaram Forest Ara at Sasaram
7. The Forestor Tilauthu-cum- Darigaon, Forest Circle, District-Rohtas

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Singh

For the Respondent/s : Mr. AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 24-11-2015 Today again on call, a prayer is being made by

learned AC to GP-1 for granting further time for filing

counter affidavit. Earlier twice on the same plea, the case was

adjourned. Firstly, on 14.08.2015, on the prayer made by

learned State Counsel, the case was adjourned for four weeks

for filing counter affidavit. Thereafter, on 14.09.2015, eight

weeks time was granted for filing counter affidavit.

Accordingly, the prayer for adjournment stands refused.

The petitioner, invoking writ jurisdiction of this

Court under Article 226 of the Constitution of India, has

prayed for directing the Respondent(s) to provisionally release

his truck bearing Registration No.JH-10Q/1824(herein after referred to as the “vehicle in question) pending confiscation proceeding i.e. Confiscation Case no. 126/2015.

It was submitted by learned counsel for the petitioner that the vehicle in question was illegally seized in the month of June, 2015 on an allegation of violation of provision of Forest Act. Besides initiating criminal case vide Dehri P.S. Case no.251/2015, a confiscation proceeding vide Confiscation Case no. 126/2015 has also been initiated. In the confiscation proceeding, the petitioner appeared and filed his show cause. Besides filing his show cause, the petitioner also filed a petition for release of the vehicle in question. However, till date, neither any order has been passed on the petition filed by the petitioner for release of the vehicle in question nor confiscation proceeding has been concluded. Learned counsel for the petitioner has placed reliance on a Division Bench Judgment of this Court passed on 06.11.2015 in L.P.A. No.2024 of 2015. He submits that the petitioner case stands on similar footing and makes a prayer for similar relief. He undertakes that as and when required, the petitioner will produce the vehicle in question before the authority concern.

In view of facts and circumstances, particularly the

fact that no order has been passed by the Authorised Officer-cum- Divisional Forest Officer, Rohtas at Sasaram on the petition filed by the petitioner for release of the vehicle in question, though it was filed in the month of June, 2015, nor confiscation proceeding has been concluded, it would not be appropriate to allow the Respondent(s) to keep the vehicle unattended and uncared. Accordingly, the writ petition is allowed with a direction to the Respondent(s) to release the vehicle in question on the following conditions:

(a) The petitioner shall furnish all the necessary papers/documents of ownership and security as may be deemed fit and proper by Respondent no.4/ Authorised Officer-cum- Divisional Forest Officer, Rohtas , Sasaram.

(b) The petitioner shall undertake, in writing , that the vehicle, in question, shall neither be alienated nor be transferred in favour of any third party during the pendency of the confiscation proceeding and that the vehicle , in question, shall be produced as and when called upon or required in the confiscation proceeding or otherwise.

The writ petition stands allowed.

(Rakesh Kumar, J)

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