

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3080 of 2015

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Devbali Chauhan, S/o - Bharat Chauhan, R/o Mohalla & P.O. - Nirala Nagar, P.S. - Dighaghat, District- Patna.

.... Petitioner/s

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 Authorized 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 Forester, Tilauthu, Cum Darigaon, Forest Circle District- Rohtas.

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.3083 of 2015

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Sunil Kumar Chaudhary, S/o- Paras Nath Chaudhary, R/o Mohalla- Bhartiganj, P.O.+ P.S.- Sasaram, District- Rohtas.

.... Petitioner/s

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 Authorized 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 Forester Tilauthu cum Darigaon, Forest Circle, District- Rohtas.

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.3088 of 2015

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Ravi Kant Singh, son of Brij Bihari Singh, resident of Mohalla - Mahavir Asthan (Nahar Road), Sasaram, P.S.- Sasaram (Model), District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Sasaram, Rohtas.

.... Respondent/s

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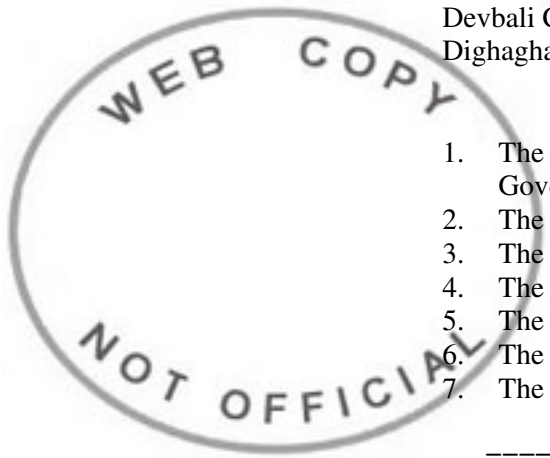
With

Civil Writ Jurisdiction Case No.3091 of 2015

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Sardar Apanjeet Singh. S/o - Surendra Singh. R/o - Gurunanak Transport, G.T. Road, Kudra, Kaimur, Bhabua through Power of Attorney holder :- Amit Kumar Singh. S/o - Dina Nath Singh. R/o - 20 Compani Sarai, P.O. + P.S.- Sasaram, District - Rohtas.

.... Petitioner/s



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 Authorized 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 Forester, Tilauthu cum Darigaon, Forest Circle, District - Rohtas.

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.3157 of 2015

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Sunil Kumar Gupta @ Sunil Kr. Gupta, son of Bharat Prasad, resident of village + P.O. Karwandia, Police Station-Sasaram (M), District-Rohatas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Bihar, Patna.
2. The Divisional Forest Officer-cum-Authorised Officer, Rohtas, Forest Division, Rohtas at Sasaram.
3. The Forester, Tilauthu, Rohatas.

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.3478 of 2015

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Jai Prakash Singh, son of Late Maulal Singh, resident of C/o P.Kumar, Aryapuri, Ratu Road, Ranchi. At present resident of Singh Colony, Meerganj Ara, P.S.- Ara Town, District-Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Divisional Forest Office -cum- Authorized Officer, Rohtas Forest Division, Sasaram, Rohtas.

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.4422 of 2015

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Jitendra Kumar Singh, son of Sudama Singh, resident of village- Hematpur, Police Station- Ara (Msfassil), District- Bhojpur at Ara Presently residing at Mahajan Toli No. 1, P.S.- Arrah (Town), District- Bhojpur at Ara.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Forest Department, Government of Bihar, Patna.
3. The Superintendent of Police, Rohtas at Sasaram.
4. The Divisional Forest Officer, Rohtas at Sasaram.
5. The S.H.O., Police Station- Dehri (Bhojpur).

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.3672 of 2015

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Ram Prakash Singh, son of Ram Nath Singh, resident of Village- Gunia, P.S.- Chainpur, District- Kaimur. At present resident of Mohalla- Ward No. 23, Purab Pokhra, Sonnan Road, Bhabua, District- Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Divisional Forest officer -cum- Authorized Officer, Rohtas Forest Division, Sasaram, Rohtas.

.... Respondent/s

With

Civil Writ Jurisdiction Case No.4429 of 2015

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Surendra Singh, son of Dudheshwar Singh, resident of village- Muzaffarpur (Madhopur), Police Station- Sahar (Trari), District- Bhojpur at Ara.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Forest Department, Government of Bihar, Patna.
3. The Superintendent of Police, Rohtas at Sasaram.
4. The Divisional Forest Officer, Rohtas at Sasaram.
5. The S.H.O., Police Station- Dehri (Bhojpur),

.... Respondent/s

With

Civil Writ Jurisdiction Case No.4279 of 2015

=====

Jitendra Kumar Singh, son of Sudama Singh, resident of village- Hematpur, Police Station- Ara (Mufassil), District- Bhojpur at Ara Presently residing at Mahajan Toli No. 1, P.S.- Arrah (Town), District- Bhojpur at Ara.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Forest Department, Government of Bihar, Patna.
3. The Superintendent of Police, Rohtas at Sasaram.
4. The Divisional Forest Officer, Rohtas at Sasaram.
5. The S.H.O., Police Station- Dehri (Bhojpur),

.... Respondent/s

Appearance :

(In CWJC No.3080 of 2015)

For the Petitioner/s : Mr. Uma Shankar Singh

For the Respondent/s : Mr. Anshuman Singh- Gp24

(In CWJC No.3083 of 2015)

For the Petitioner/s : Mr. Uma Shankar Singh

For the Respondent/s : Mr. Manindra Kishore Singh, SC-6

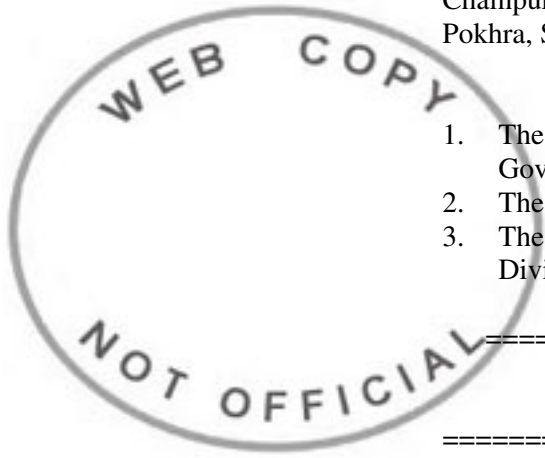
(In CWJC No.3088 of 2015)

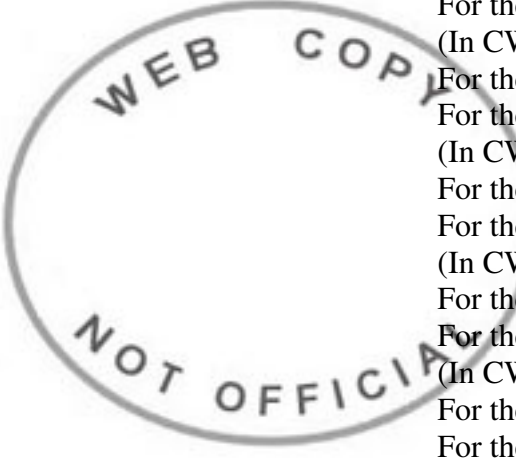
For the Petitioner/s : Mr. Rajani Kant Singh

For the Respondent/s : Mr. Rajiv Roy, GP-5

(In CWJC No.3091 of 2015)

For the Petitioner/s : Mr. Uma Shankar Singh





For the Respondent/s : Mr. M.K. Sinha, SC-1
 (In CWJC No.3157 of 2015)
 For the Petitioner/s : Mr. Sanjay Kumar Tiwary
 For the Respondent/s : Mr. Dinbandhu Singh, GP-9
 (In CWJC No.3478 of 2015)
 For the Petitioner/s : Mr. Rajani Kant Singh
 For the Respondent/s : Mr. Ashok Kumar Keshri, AAG-11
 (In CWJC No.4422 of 2015)
 For the Petitioner/s : Mr. Vipin Kumar Singh
 For the Respondent/s : Mr. S.A. Alam, SC-3
 (In CWJC No.3672 of 2015)
 For the Petitioner/s : Mr. Rajani Kant Singh
 For the Respondent/s : Mr. P.N.Shahi, AAG-10
 (In CWJC No.4429 of 2015)
 For the Petitioner/s : Mr. Vipin Kumar Singh
 For the Respondent/s : Mr. Ashok Kumar Priyadarsi, GA-4
 (In CWJC No.4279 of 2015)
 For the Petitioner/s : Mr. Vipin Kumar Singh
 For the Respondent/s : Mr. Sc1- M.K. Sinha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 15-04-2015

Learned counsel for the parties are present.

Since in each of these cases the relief prayed by the petitioners is identical hence they have been taken up together for analogous hearing and final disposal with the consent of the parties at the stage of admission itself.

The petitioners in each of the writ petitions seek a direction to the Divisional Forest Officer, Rohtas Forest Division, Rohtas -cum- Authorized Officer under the Forest Act, 1927, for provisional release of their respective vehicle pending adjudication in the confiscation/criminal proceedings. In each of these cases the vehicle of these petitioners stands seized on grounds of alleged



violation of the provisions of the Forest Act and which has led to institution of the Forest Case which is now pending consideration in respective confiscation proceedings/ criminal proceedings before the Authorized Officer who happens to be the Divisional Forest Officer, Rohtas Forest Division, Rohtas/court below.

The contention advanced by the learned counsel for the respective petitioners is that keeping the vehicles under the open sky to face the vagaries of the weather would serve no purpose and would only turn them obsolete rendering them useless for any future use and which would benefit none rather it would only result in loss.

Learned counsel for the respective petitioners have stated that the petitioners would not be creating any third party right nor they would alienate the vehicle pending disposal of the respective confiscation case/ criminal proceedings and that they would produce the vehicle as and when required in the confiscation proceedings/criminal proceedings. It is also the contention of learned counsel that release petitions have also been filed before the statutory authority but has remained pending in most of the cases and thus these writ petitions. The individual details of the petitioner in each of the writ petitions are given hereinbelow.

(1) CWJC No. 3080 of 2015:

In this case the vehicle of the petitioner bearing



Registration No. BR-01GA-8188 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No.8 of 2015 which has led to registration of Confiscation Case No.17 of 2015 pending adjudication before the Divisional Forest Officer -cum- Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(2) CWJC No. 3083 of 2015:

In this case the vehicle of the petitioner bearing Registration No. BR-24G/9575 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No.13 of 2015 which has led to registration of Confiscation Case No.21 of 2015 pending adjudication before the Divisional Forest Officer -cum- Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(3) CWJC No. 3088 of 2015:

In this case the vehicle of the petitioner bearing Registration No.UP-78BT/1931 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No.9 of 2015 which has led to registration of Confiscation Case No.9 of 2015 pending adjudication before the Divisional Forest Officer -cum- Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(4) **C.W.J.C. No. 3091 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.OR-14Q/5155 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No.81 of 2014 which has led to registration of Confiscation Case No.103 of 2014 pending adjudication before the Divisional Forest Officer -cum- Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(5) **CWJC No. 3157 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.OR-23B-2322 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No.4 of 2015 which has led to registration of Confiscation Case No.11 of 2015 pending adjudication before the Divisional Forest Officer -cum- Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(6) **CWJC No. 3478 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.JH-01Z-9861 was seized on allegations of transporting forest produce without any supportive papers giving rise to Dehri (T) P.S. Case No.68 of 2015 which has led to registration of Confiscation Case No.22 of 2015 pending

adjudication before the Divisional Forest Officer -cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(7) **CWJC No. 4422 of 2015 :**

In this case the vehicle of the petitioner bearing Registration No.OR-14R-4125 was seized on allegations of transporting forest produce without any supportive papers giving rise to Dehri P.S. Case No.68 of 2015 which has led to registration of Confiscation Case No.22(H) of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(8) **CWJC No. 3672 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.JH-02N-8731 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No.8 of 2014 which has led to registration of Confiscation Case No.17 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(9) **CWJC No. 4429 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.JH-02D/7314 was seized on allegations of transporting forest produce without any supportive papers giving

rise to Dehri P.S. Case No.68 of 2015 which has led to registration of Confiscation Case No.22 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(10) **CWJC No. 4279 of 2015:**

In this case the vehicle of the petitioner bearing Registration No.UP-61F-5095 was seized on allegations of transporting forest produce without any supportive papers giving rise to Dehri P.S. Case No.68 of 2015 which has led to registration of Confiscation Case No.22 (F) of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

I have heard learned counsel for the parties and I have perused the materials on record.

As I have taken note of hereinabove, the vehicles of these petitioners stand seized on allegation of being loaded with illegally mined forest produce. Though learned counsel for the respective petitioners have tried to defend the load carried on each of the vehicles but considering that the matter is pending adjudication before the statutory authority/court below, this Court would express no opinion thereon. However taking note of the circumstances that these vehicles are lying unattended under the



open sky to face the vagaries of weather, this Court is of the opinion that allowing these vehicles to turn obsolete would benefit none rather it would only lead to losses and thus this Court would deem fit and proper to order for the provisional release of the vehicles subject to furnishing of supporting papers of ownership and security as deem fit and proper by the authorized officer and which release obviously would be subject to final outcome of the confiscation proceedings/criminal proceedings.

In the circumstances discussed, and in in view of the law laid down in the case **of Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **(2002)10 SCC 283** this Court would direct the Divisional Forest Officer, Rohtas Forest Division, Rohtas -cum- Authorized Officer under the Forest Act, 1927 in seisin of the respective confiscation cases which are subject matter of the present proceedings to order for release of the respective vehicles in favour of the petitioners within four weeks of the receipt/production of a copy of the order subject to the fulfillment of the following conditions:

- (a) The petitioner shall produce all original papers supporting the ownership of the vehicle in question including the registration papers, the insurance paper, the tax token and the pollution certificate.

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- (b) The petitioner shall file an undertaking in the form of an affidavit that he shall not alienate the vehicle or transfer the vehicle in favour of any third party during the pendency of the confiscation/criminal proceedings and shall produce the vehicle as and when required in the confiscation/ criminal proceedings.
- (c) The petitioner shall furnish such security as deem fit and proper by the Divisional Forest Officer -cum- Authorized Officer, Rohtas at Sasaram which shall neither be in the form of cash nor bank guarantee.
- (d) The release of the vehicle shall be governed by the final outcome of the confiscation/criminal proceedings.

With the observations and directions aforementioned,
the writ petitions are allowed.

(Jyoti Saran, J)

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