

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.373 of 2015

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Raj Kumar Singh, Raja Construction Private Limited, Proprietor Raj Kumar Singh alias Raj Kumar, Son of Sri Premdhari Singh , resident of A-16, Bank of India Colony, Raza Bazar, P.S. Shastrinagar, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Forest Department , Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Authorised Officer-Cum-Divisional Forest Officer, Gaya Forest Division, Gaya.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 507 of 2015

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Santosh Kumar Singh S/o Sri Laldeo Singh, resident of Village-Kanchanpur, P.S. Sasaram, District Rohtas.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance:

(In CWJC No. 373 of 2015)

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate

For the Respondent/s : Mr. GP27- Purnendu Singh, G.P.-27

(In CWJC No. 507 of 2015)

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate

For the Respondent/s : Mr. Nirbhay K. Singh, G.P.-26

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-02-2015

Heard learned counsel for the parties.

Since in both of 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.

The petitioners in each of the writ petitions seek a direction to the Authorized Officer-cum-Divisional Forest Officer, Gaya Forest Division, District-Gaya under the Indian Forest Act, 1927, for provisional release of their respective vehicle pending adjudication of the confiscation proceedings. In each of these cases the vehicle of these petitioners stands seized on grounds of alleged violation of the provisions of the Indian Forest Act and which has led to institution of the Forest Case which is now pending consideration in respective confiscation proceedings before the Authorized Officer who happens to be the Authorized Officer-cum-Divisional Forest Officer, Gaya Forest Division, District-Gaya.

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 and that they would produce the vehicle as and when required in the confiscation 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 both of the writ petitions are given hereinbelow.

(1). **C.W.J.C. No. 373 of 2015**

In this case the vehicles of the petitioner bearing Registration Nos. BR-1G-7524, BR-01GC 8119, BR-1G 7526, BR-01GC 8121, BR-01GC 8122 and BR-01GB 4762 were seized on allegations of transporting stone chips without any supportive papers giving rise to Khisersarai P.S. Case No. 182 of 2014 which has led to registration of Confiscation Case No. 60 of 2014 pending adjudication before the Authorized Officer-cum-Divisional Forest Officer, Gaya Forest Division, District-Gaya and;

(2). **C.W.J.C. No. 507 of 2015**

In this case the vehicle of the petitioner bearing Registration No. BR-25 G-1886 was seized on allegations of transporting stone chips without any supportive papers giving rise to Khisersarai P.S. Case No. 182 of 2014 which has led to registration of Confiscation Case No. 60 of 2014 pending adjudication before the Authorized Officer-cum-Divisional Forest Officer, Gaya Forest Division, District-Gaya.

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 stone chips. 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, 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.

In the circumstances discussed, this Court would direct the Authorized Officer-cum-Divisional Forest Officer, Gaya Forest Division, District-Gaya under the Forest Act, 1927 in seisin of the respective confiscation cases which are subject matter of the present proceedings to order for the release of the respective vehicles in favour of the petitioners within eight 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.

- (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 proceedings and shall produce the vehicle as and when required in the confiscation proceedings.
- (c) The petitioner shall furnish such security as deem fit and proper by the Authorized Officer-cum-Divisional Forest Officer, Gaya Forest Division, District-Gaya which shall neither be in the form of cash nor bank guarantee; and
- (d) The release of the vehicle shall be governed by the final outcome of the confiscation proceedings.

With the observations and directions aforementioned, the writ petitions are disposed of.

(Jyoti Saran, J)

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