

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13300 of 2014

- =====
1. Janeshwar Sah, son of Late Gariban Sah, resident of Village - Akbarpur, P.O. + P.S. + District - Rohtas.
 2. Shravan Sah, son of Late Nathuni Sah, resident of Village - Uchaila, Tola - Path Khachulia, Akbarpur, P.O. + P.S. + District - Rohtas.
- Petitioner/s

Versus

1. The State of Bihar.
 2. The Principal Secretary, Forest Department, Government of Bihar, Patna.
 3. The District Forest Officer, Rohtas, Forest Division, Sasaram.
 4. The Range Officer of Forest, Rohtas Forest Range, Rohtas.
 5. The Station House Officer, Indrapuri Police Station, Indrapuri, Rohtas.
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey
Mr. Ramanuj Tiwary
For the Respondent/s : Mr. Rajiv Ranjan Kumar Pandey, SC-29

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 09-01-2015 Heard Mr. Ashutosh Ranjan Pandey, learned counsel appearing on behalf of the petitioners and learned counsel for the State.

The petitioners have questioned an order dated 15.2.2014 passed by the Forest Officer –cum- Divisional Forest Officer, Rohtas Forest Division, Sasaram in Confiscation Case No.02 of 2013, whereby the goods seized from the vehicle of the petitioners have been confiscated.

Mr. Pandey, learned counsel appearing for the petitioners submits that although the goods seized from the vehicle is ‘Piyar’ which is not a forest produce within the



meaning of section 2(4) of the Bihar Forest Produce (Regulation of Trade) Act, 1984 (hereinafter referred to as 'the Act') and the Schedule appended thereto but the confiscating authority by misappreciating the legal position, has confiscated the goods *inter alia*, on grounds that it is a forest produce.

Learned counsel in support of his submission has referred to a letter of the Divisional Forest Officer, Shahabad Forest Division, Sasaram dated 9.6.1992 addressed to the Chief Judicial Magistrate, Rohtas at Sasaram placed at Annexure-1.

Having heard learned counsel for the parties and considering that the dispute raised by the petitioners is whether the confiscated goods is a forest produce or not which is an issue of fact and law, this Court is of the opinion that in view of the appellate remedy available to the petitioner under section 52A of the State Amendment vide Bihar Act 9 of 1990 whereunder an appeal lies before the District Magistrate against an order passed in a confiscation proceeding, the petitioners should exhaust the statutory remedy of appeal so available to them.

Learned counsel for the petitioner submits that the period of limitation provided for filing an appeal under section 52-A of the Indian Forest Act has since expired during the pendency of the present proceeding.

Taking note of the circumstances and considering that the matter was being deliberated before this Court, if the petitioners prefer an appeal within six weeks from today along with an application for condonation of delay the appellate authority shall consider and dispose of the same on its own merits in accordance with law and with opportunity of hearing to the petitioners, bearing in mind the pendency of the issue before this Court.

With the direction/observations aforementioned, the writ petition is accordingly disposed of.

(Jyoti Saran, J)

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