

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9407 of 2016

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Meher Banu Begum, Wife of Hazrat Ali Ahmed, Permanent residence of village - Bochakata, Post Office + Police Station - Mankachar, District - Dhubri, State - Assam, Presently residence of village - Pipulbari Part - II, P.O. - Pupilbari, Police Station - Mankachar, District - Dhubri, State - Assam, Partner of M/S Pioneer Live Stock Hatsingimnari, District - Dhubri, State - Assam.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Home & Political Department Government of India New Delhi.
2. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
3. The Commissioner, Customs Preventive, Government of India Patna.
4. The Deputy/Assistant Commissioner, Customs (Preventive), Forbesganj, District - Araria.
5. The District Magistrate, Araria.
6. The Superintendent of Police, Araria.
7. The District Magistrate Kishanganj.
8. The Superintendent of Police, Kishanganj.
9. The District Magistrate, Supaul.
10. The Superintendent of Police, Kishanganj.
11. The District Magistrate, Saharsa.
12. The Superintendent of Police, Saharsa.
13. The Commanding Officer, S.S.B. - 12 Battalion, District - Kishanganj.
14. The Deputy Commanding Officer, S.S.B. - 12 Battalion, District - Kishanganj.
15. The Commanding Officer, S.S.B. - 19 Battalion, Thakurganj, District - Kishanganj.
16. The Superintendent of Customs Preventive, Thakurganj, District - Kishanganj.
17. The Consultant Secretary, Animal Welfare Board of India (Ministry of Environment and Forest, Govt. of India) 13/1, Third L Seaward Road, Valmiki Nagar, Thiruvaniyur, Chennai.
18. The Senior Deputy Collector, Kishanganj, District - Kishanganj.
19. The Customs Officer, Thakurganj, District - Kishanganj.
20. The Joint Commissioner, Customs (P), Head-quarter- Patna.
21. The D.I.G., S.S.B. 12th Battalion, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Prasad Yadav
For the Respondent-State : Mr. S.A. Alam, SC-3
For the Union & Customs Deptt.: Mr. Anshay Bahadur Mathur

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-06-2016

Heard Mr. Shambhu Prasad Yadav, learned counsel

appearing for the petitioner, Mr. Anshay Bahadur Mathur, learned Central Government Counsel as well as the Department of Customs and the counsel for the State.

The petitioner prays for a direction to the authorities of the Customs Department for passing appropriate orders for release of the cattle seized by the Seema Suraksha Bal, 12th BN, 'G'. Company, Sukhani, District- Kishanganj on 2.6.2016 and handed over to the Customs (Preventive) Circle, Thakurganj, District- Kishanganj on 3.6.2016 and when an order of seizure has been passed on 5.6.2016 present at Annexure-9. The petitioner filed an application for provisional release of the seized cattle present at Annexure-10 on 6.6.2016 and since the matter was not being disposed of that the present writ petition was filed and was taken up for consideration on 20.06.2016 when time was granted to Mr. Mathur, learned counsel representing the Government of India and the Customs Department to seek instruction on the provisional release of the cattle.

A counter affidavit has since been filed by the Joint Commissioner on behalf of respondent nos.1, 3, 4, 16 and 19 on 25.6.2016 enclosing a copy of his order bearing Memo No.6699 dated 22.6.2016 whereby the cattle has been released provisionally subject to execution of bond for the value of the cattle as well as

cash security of Rs.1,80,000/- .

Mr. Yadav, learned counsel appearing for the petitioner with reference to the order of provisional release of the cattle submits that the grievance of the petitioner is only partially redressed for the condition requiring furnishing of cash security of Rs.1,80,000/- is onerous. He submits that the petitioner would furnish the bond for the value of the cattle assessed without any delay.

Having heard learned counsel for the parties and considering the nature of grievance raised which is backed by the recommendation present in the letter of the Assistant Commissioner dated 9.6.2016 addressed to the Joint Commissioner, Customs (P), Headquarter, in my opinion, there is no occasion for the Joint Commissioner to direct the petitioner for furnishing cash security once he has directed the petitioner to execute the bond for the full value of the seized cattle to the tune of Rs.4,55,000/-. In fact the letter of the Assistant Commissioner under reference also contains the opinion of the Superintendent, Customs upholding the ownership of the petitioner upon examination of documentary evidence.

In the circumstances discussed, the order dated 22.6.2016 of the Joint Commissioner bearing Memo no.6699 present at



Annexure-B to the counter affidavit directing for provisional release of the cattle in question stands modified and the condition requiring furnishing of cash security of Rs.1,80,000/- is set aside. The petitioner would execute a bond for the value of the cattle determined at Rs.4,55,000/- and no sooner such bond is executed by the petitioner and submitted before the Assistant Commissioner, Customs that the cattle in question should be released within 48 hours next and within which time all formalities should be completed by the Assistant Commissioner or the authority concerned.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

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NAFR	
CAV DATE	
Uploading Date	28-06-2016
Transmission Date	