IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17524 of 2016

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Nisha Devi, wife of Shri Ritesh Kumar, resident of Belwa Ganj, P.O. + P.S. Laharia Sarai, District – Darbhanga.

.... Petitioner

Versus

1. The State of Bihar, through the Commissioner of Excise and Prohibition, Department of Excise and Prohibition, Patna having its office at Vikas Bhawan, Patna.
2. Department of Excise and Prohibition through Commissioner of Excise and Prohibition, having its office at Vikas Bhawan, Patna.
3. Dy. Commissioner of Commercial Taxes, Darbhanga, Circle, Darbhanga.
4. Superintendent of Excise, Department of Excise and Prohibition, Darbhanga.
5. Chief Manager, State Bank of India Main Branch, Darbhanga.
6. Shri Udai Rai, son of Shri Kusheshwar Rai, resident of village – Baghla, Kamalpur P.S. – Bishanpur, District – Darbhanga.

.... Respondents

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Appearance :

For the Petitioner : Mr. D.V. Pathy, Advocate
Ms. Manju Jha, Advocate

For the State : Mr. Bishwa Bibhuti Kumar Singh, Advocate
AC to PAAG-I, Bihar

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 27-10-2016

Heard D.V. Pathy, in support of the writ petition and learned counsel for the State.

2. Submission is that the fixed deposit receipt of the petitioner has wrongly been used by one Udai Rai having been submitted as a part of security for the State excise license for the year 2014-15. There being outstanding sales tax dues of the excise license, the fixed deposit receipt is sought to be attached or encashed for liquidation of the said dues. The submission is that the excise license period having long since expired, and the petitioner wrongly been coerced to give the fixed deposit receipt, the same cannot be attached or encashed for the dues of Udai Rai.

3. Learned counsel for the State draws attention of this Court to the legal notice sent by the petitioner's lawyer, Sri Dhiraj Kumar, to the Superintendent of Excise (Annexure-2), which clearly admits that, with the knowledge and consent of the writ petitioner, the fixed deposit receipt of the petitioner was used as a security for the excise license for the period 2014-15, by one Udai Rai.

4. If this be the position, then, whether, in fact, petitioner was coerced to give the fixed deposit receipt or whether the petitioner was misled by her brother and brother-in-law to part with the fixed deposit receipt, becomes irrelevant. Those are matters *inter se* between the parties. Surely, the receipt having been pledged with the license, the fixed deposit receipt can be used to liquidate the dues as it is the security for the due performance of the license obligation. The grievances, if any, of the petitioner, can be settled inter-party as between her brother, brother-in-law and the said Udai Rai, but surely the State cannot be prevented from encashing or attaching with pledged fixed deposit receipt.

5. We, thus, find no merit in this writ petition. This writ petition is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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