

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.463 of 2016

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Jai Prakash Singh, Son of Mukhtar Singh, resident of Village- Chanp, P.S.- Akorhigola, 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, District- Rohtas.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 522 of 2016

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Bhola Yadav, Son of Dhan Kishun Yadav, Resident of Mohalla - Gada Basa, Kali Mati Station Road, Jamshedpur, P.S. Golmuri, District - East Singhbhum (Jharkhand) at present resident of Mohalla - New Sidhauli, Dalmianagar, P.S. Dalmianagar, 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, District – Rohtas.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 617 of 2016

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Sunil Kumar, Son of Kailash Singh, Resident of village - Gopibigha, P.S. Dehri, District - Rohtas at present 85/140, Officers Flat, Bailey Road, Patna.

.... 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, District – Rohtas.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 645 of 2016

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Sunil Singh, Son of Mukhan Singh, Resident of Village- Jagatpur, P.S.- Barun, District Aurangabad.

.... 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 District Rohtas.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 932 of 2016

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Sharvan Kumar Pandey, Son of late Sheo Pujan Pandey, Resident of Village- Chhotki More, Jaipur, P.S. Sasaram(M), District Rohtas.

.... Petitioner/s

Versus

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

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 1367 of 2016

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Suman Devi, Wife of Anil Sah, resident of village- Bansa, Police Station- Sasaram (Mufassil) District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Forest Department, Government of Bihar, Patna.
3. The Divisional Forest Officer, Rohtas at Sasaram.
4. The Forest Range Officer, Sasaram Forest Area, Rohtas at Sasaram.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 1418 of 2016

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Veer Pratap Singh, Son of Sri Baban Singh, Resident of Darpa Narain Tagore Street, Kolkata - 6 at present Resident of Mohalla - Dhibra Bikramganj, P.S. Bikramganj, District – Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Govt. 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

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Civil Writ Jurisdiction Case No. 2092 of 2016

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Shri Kant Paswan Son of Late Prahlad Paswan, Resident of Village- Jagdawandih,
P.S. - Sasaram (M), 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 Office, Rohtas Forest Division, Sasaram, District - Rohtas.

.... Respondent/s

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Appearance:

(In CWJC No. 463 of 2016)

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

For the Respondent/s : Ms. Geeta Kumari, GP-28

(In CWJC No. 522 of 2016)

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

For the Respondent/s : Mr. Nashrul Hoda Khan, SC-18

(In CWJC No. 617 of 2016)

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

For the Respondent/s : Mr. Abbas Haidar

(In CWJC No. 645 of 2016)

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

For the Respondent/s : Mr. Arbind Kumar No. II, SC-17

(In CWJC No. 932 of 2016)

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

For the Respondent/s : Mr. Raju Giri, GP-30

(In CWJC No. 1367 of 2016)

For the Petitioner/s : Mr. Vipin Kumar Singh, Advocate

For the Respondent/s : Mr. R.R.K. Pandey, SC-29

(In CWJC No. 1418 of 2016)

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

For the Respondent/s : Mr. N.K. Singh, GP-26

(In CWJC No. 2092 of 2016)

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

For the Respondent/s : Mr. R.S. Nath, AAG3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-09-2016

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 disposal with the consent of the parties.

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 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 Forest Act and which has led to institution of the Forest Case which is now pending consideration in respective confiscation proceedings before the Authorised Officer who happens to be the Divisional Forest Officer, Rohtas Forest Division, Rohtas.

Although learned counsel for the petitioners tried to question the alleged seizure on merits but considering that the matter is pending consideration in the respective confiscation proceedings, this Court would refrain from expressing any opinion thereon.

The contention advanced by the learned counsel for the respective petitioners in support of their prayer for provisional release of the vehicles 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 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) Re: **C.W.J.C. 463 of 2016**

In this case the vehicle of the petitioner bearing Registration No. JH-02K/7916 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 32 of 2015 which has led to registration of Confiscation Case No. 72 of 2015 pending adjudication before the Divisional Forest Officer -cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(2) Re: **C.W.J.C. 522 of 2016**

In this case the vehicle of the petitioner bearing



Registration No. JH-05AK/3477 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 100 of 2015 which has led to registration of Confiscation Case No. 211 of 2015 pending adjudication before the Divisional Forest Officer - cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(3) Re: **C.W.J.C. 617 of 2016**

In this case the vehicle of the petitioner bearing Registration No. BR-01GB/7196 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 100 of 2015 which has led to registration of Confiscation Case No. 211 of 2015 pending adjudication before the Divisional Forest Officer - cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(4) Re: **C.W.J.C. 645 of 2016**

In this case the vehicle of the petitioner bearing Registration No. JH-05AB/6663 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 100 of 2015 which has led to registration of Confiscation Case No. 211 of 2015 pending adjudication before the Divisional Forest Officer - cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(5) Re: **C.W.J.C. 932 of 2016**

In this case the vehicle of the petitioner bearing



Registration No. JH-05X/9361 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 6 of 2015 which has led to registration of Confiscation Case No. 207 of 2015 pending adjudication before the Divisional Forest Officer - cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(6) Re: **C.W.J.C. 1367 of 2016**

In this case the vehicle of the petitioner bearing Registration No. BR-06GA/6688 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 99 of 2015 which has led to registration of Confiscation Case No. 199 of 2015 pending adjudication before the Divisional Forest Officer - cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(7) Re: **C.W.J.C. 1418 of 2016**

In this case the vehicle of the petitioner bearing Registration No. WB-23B/1881 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 49 of 2013 which has led to registration of Confiscation Case No. 97 of 2013 pending adjudication before the Divisional Forest Officer - cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

(8) Re: **C.W.J.C. 2092 of 2016**

Mr. Rajnikant Singh is permitted to make

appropriate correction in the synopsis of the matter during the course of the day.

In this case the vehicle of the petitioner bearing Registration No. BR-24A/8272 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 5 of 2016 which has led to registration of Confiscation Case No. 10 of 2016 pending adjudication before the Divisional Forest Officer - cum- Authorised Officer, Rohtas Forest Division, Rohtas at Sasaram.

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 Authorised Officer and

which release obviously would be subject to final outcome of the confiscation proceedings.

In the circumstances discussed, this Court would direct the Divisional Forest Officer, Rohtas Forest Division, Rohtas - cum- Authorised Officer under the Forest Act, 1927 in seisin of the respective confiscation cases which are subject matter of the present proceedings to release 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 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 Divisional Forest Officer-cum-Authorised 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 proceedings.

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

(Jyoti Saran, J)

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