

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1731 of 2012

IN

Civil Writ Jurisdiction Case No. 13028 of 2012

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Pyare Bind, Son of Late Ghurver Bind, Resident of Village - Dumariya, P.S - Chainpur, District - Kaimur

.... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Forest & Environment, Bihar, Patna
3. The Collector, Kaimur at Bhabua
4. The Authorised Officer-cum-Divisional Forest Officer, Shahabad Forest Division, Kaimur
5. The Authorised Officer cum Divisional Forest Officer Shahabad Forest Division, Sasaram, Rohtas

.... Respondents

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Appearance :

For the Appellant : Mr. Ravi Shankar Sahay, Advocate
Mr. Ajay Nandan Sahay, Advocate
Mr. Randhir Kumar, Advocate

For the Respondents : Mr.

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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: 01-04-2016

This intra-court appeal has been filed by the appellant, who was the writ petitioner, being aggrieved by the dismissal of the writ petition by order dated 12.09.2012, passed in C.W.J.C. No. 13028 of 2012.

We have heard learned counsel for the appellant-writ petitioner and with his consent are disposing of this intra-court appeal at this stage itself.



The writ petitioner-appellant is the owner of a tractor which he had purchased after taking loan from the Bank. He had intended to use it for agriculture purposes. It appears that the Forest Range Officer intercepted the tractor carrying 100 pieces of Patia (stones chips) which were allegedly forest produce for which no paper could be produced. Accordingly, forest case was instituted and proceeding of confiscation under the provisions of the Indian Forest Act was taken up. After hearing the writ petitioner-appellant, confiscation order was passed which was not interfered with in appeal or in revision. The result was that not only 100 Patias were ordered to be confiscated being forest produce being illegally transported, the tractor was also ordered to be confiscated.

Learned counsel for the appellant-writ petitioner submits that in terms of Section 68 of the Indian Forest Act, as amended by the Bihar Act, it was incumbent upon the authorities to give an option to the petitioner to pay the price of the vehicle in lieu of facing consequences of confiscation proceedings. Bihar Amendment of Section 68 is quoted hereunder :

“68.-(1) The State Government may, by notification in the official Gazette, empower a forest officer-

(a) To accept from any person against whom a reasonable suspicion exist that he has committed

any forest offence other than an offence specified in clauses (c) and (d) to Section 26 clause (c) and (d) to Section 33 or Section 62 or Section 63, sum of money by way of compensation for the offence with such person is suspected to have committed, and

(b) When any property has been seized as liable for confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money or such value, or both as the case may be, to such officer, the suspected person, in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) Forest Officer shall not be empowered under this Section unless he is a Forest Officer of a rank not inferior to that of an Assistant Conservator of Forest.”

The provision does not make it obligatory on the Assessing Authority or authorised officer to make any such offer to an offender in respect of offending articles which includes the vehicle in which the forest produce was being carried. It is an option given to the offender. It is an option that has to be exercised by the offender in respect of the property which has been seized and is liable for confiscation. Here, undoubtedly, no such offer was ever made by the

appellant- writ petitioner at any stage. Ignorance of law is no excuse. The appellant- writ petitioner was being represented by lawyers then to say that it was obligatory on the officers to make an offer cannot be accepted.

However, in the facts and circumstances of the case, we direct that if an offer is made by the appellant-writ petitioner even today in terms of Section 68 (1)(b) of the Indian Forest Act, as per Bihar Amendment, the appropriate authority, who ordered confiscation of the vehicle, would consider the same and pass orders in accordance with law.

In view of the aforesaid, this appeal is accordingly, disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh/AFR

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