

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19528 of 2015

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Bejendra Singh Son of Sri Ramashish Singh resident of village-Tilai, P.S.
Sanjhauli, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Director/ Secretary, Dept. of Mines and Geology,
Govt. of Bihar, Patna
2. The Principal Secretary, Dept. of Forest and Enjoinment of Bihar, Patna
3. The Divisional Forest Officer, Rohtas as Sasaram
4. The District Forest Officer, Rohtas at Sasaram
5. The Ranger, Fajilpur Forest Area, Sasaram, District Rohtas at Sasaram
6. The Collector, Rohtas at Sasaram

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Virendra Kumar Ray, Advocate
For the Respondent/s : Mr. D.K. SINHA, AAG-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-09-2016

Learned counsel for the parties are present.

The petitioner in the writ petition seeks a direction to the Divisional Forest Officer, Rohtas at Sasaram under the Forest Act, 1927, for provisional release of his vehicle pending adjudication of the confiscation proceedings. In this case the vehicle of the petitioner 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 confiscation proceedings before the Divisional Forest Officer, Rohtas at Sasaram. Although learned counsel for the petitioner tried to question the alleged seizure on

merits but considering that the matter is pending consideration in the confiscation proceedings, this Court would refrain from expressing any opinion thereon.

The contention advanced by the learned counsel for the petitioner in support of his prayer for provisional release of the vehicle is that keeping the vehicle under the open sky to face the vagaries of the weather would serve no purpose and would only turn it obsolete rendering it useless for any future use and which would benefit none rather it would only result in loss.

Learned counsel for the petitioner has stated that the petitioner would not be creating any third party right nor he would alienate the vehicle pending disposal of the confiscation case and that he would produce the vehicle as and when required in the confiscation proceedings. It is also the contention of learned counsel that petition has also been filed before the statutory authority but has remained pending and thus the writ petition.

In this case the vehicle of the petitioner bearing Registration No. JH01W/1128 was seized on allegation of transporting forest produce without any supportive papers giving rise to Forest Case No. 89 of 2015 which has led to registration of Confiscation Case No. 184 of 2015 pending adjudication before the Divisional Forest Officer, Rohtas at Sasaram.



As I have taken note of hereinabove, the vehicle of the petitioner stands seized on allegation of being loaded with illegally mined stone chips. Though learned counsel for the petitioner has tried to defend the load carried on the vehicle 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 the vehicle is lying unattended under the open sky to face the vagaries of weather, this Court is of the opinion that allowing the vehicle 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 vehicle 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 at Sasaram under the Forest Act, 1927 in seisin of the confiscation case which is subject matter of the present proceedings to release the vehicle in favour of the petitioner 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, the writ petition is disposed of.

S.Sb/-

(Jyoti Saran, J)

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