

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.23 of 2016

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Ravi Rai @ Ravi Shankar Rai , Son of Paras Nath Rai, resident of Mohalla
Central Jail Road, Charitra Van, PS Buxar Town, Buxar

.... Petitioner

Versus

1. The State of Bihar Through The District Magistrate, Buxar
2. The District Magistrate, Buxar
3. The Sub Divisional Office, Buxar
4. The Circle Officer, Buxar
5. The Superintendent of Police, Buxar
6. The Officer Incharge, Industrial Area Police station, Buxar
7. The Police Sub Inspector cum Investigating Officer, Economic
Offences Wing, Bihar, Patna
8. Bihar State Food and Civil Supplies Corporation Limited

.... Respondents

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Appearance :

For the Petitioner/s : Dr. Ajay Kumar Thakur
Mr. Md.Imteyaz Ahmad

For the State : Mr. Rajesh Kumar, GP 19

For Economic Offences Unit : Mrs. Soni Shrivastava

For BSFC : Mr. Shailesh Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
ORAL ORDER

9 16-03-2016 The challenge in the present writ application is to the

communication dated 26th November, 2015 (Annexure-6),

whereby on the request of the Economic Offences Wing, Bihar,

Patna, the Sub Divisional Officer, Buxar, has passed an order of

attachment of land of the petitioner and appointed Circle Officer,

Buxar, as a Receiver of the property.

The short argument raised by learned counsel for the

petitioner is that any executive authority has no jurisdiction to

attach any land and appoint a Circle Officer as a Receiver of such

land.

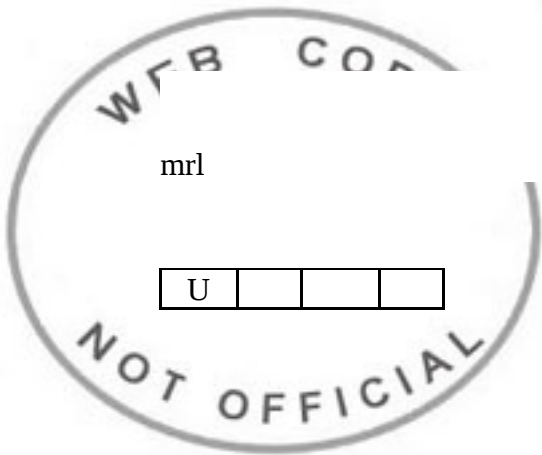


On the other hand, the stand of the respondent-State is that the land has been attached in exercise of powers under Section 102 of the Code of Criminal Procedure, 1973, and such land has been attached in pursuance of the request of the Investigating Officer of the Economic Offences Wing, Bihar, Patna. Learned counsel for the respondents has also pointed out that such attachment was done in pursuance of an order of the District Magistrate, Buxar, passed on 06.01.2016 and in compliance of such direction the plot in question was actually attached on 11th January, 2016.

I do not find any merit in the arguments raised by learned counsel for the respondents. In terms of Section 102 of the Code of Criminal Procedure, 1973, any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Thus, the power under Section 102 CrPC is a power to be exercised by any police officer and not by any executive authority or District Magistrate.

In view of the said fact, the communication dated 26.11.2015 (Annexure -6) is quashed and set aside. However, it shall be open to the competent police officer to act in accordance with law.

The writ petition is allowed accordingly.



(Hemant Gupta, J)