

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.8052 of 2015**

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M/s R.K. Finance Ltd., having its registered office at 19, R.N. Mukherjee Road, Kolkata, through its constituted attorney Uttam Kumar Sharma, son of Late Sidheshwar Sharma, Resident of 19, R.N. Mukharjee Road, P.S. Heirstreet, Town & District- Kolkata

.... .... Petitioner

Versus

1. The State of Bihar through District Magistrate-cum-Collector, Bhojpur at Ara.
2. The District Magistrate-cum-Collector, Bhojpur at Ara
3. The Deputy Collector, Bhojpur at Ara
4. Sarabjeet Yadav, son of Bishwanath Yadav, Resident of Dipu Dangal, P.O. + P.S.- Kulti, District- Burdwan

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Alok Kumar Agrawal, Advocate

For the State : Mr. Ashok Kumar Pathak, Advocate

For respondent no.4 : Mr. Rajiv Ranjan Tiwari, Advocate

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 15-03-2016**

Heard learned counsel for the petitioner, state and respondent no. 4. Petitioner seeks release of the truck bearing registration no. WB-29/6277, Engine no. 50B62386692 which was seized for contravention of the provisions of Essential Commodities Act and a police case bearing Udwant Nagar P.S. case no. 154/12 has been registered under Section 7 of the Essential Commodities Act on the allegation that the truck was carrying wheat belonging to the State Food Corporation. A confiscation proceeding has also been initiated as Confiscation Case no. 37/2012-13.



The petitioner claims to be a non-banking financial institution having financed the respondent no. 4 for purchase of the concerned truck under hire and purchase agreement. However, the respondent no. 4 subsequently stopped repaying the instalments of the loan amount, therefore, arbitration clause was invoked and Award has also been made in favour of the petitioner.

It is contended that the truck is lying in open sky and that would rot if it is not handed over to the petitioner and in the present facts and circumstances the truck cannot be allowed to be released in favour of respondent no. 4 i.e. the debtor.

Mr. Rajiv Ranjan Tiwari appearing on behalf of respondent no. 4 has submitted that respondent no. 4 has no any objection if the truck concerned is released in favour of the petitioner being the financier.

A counter affidavit has also been filed on behalf of the State stating that a police case and confiscation case have been initiated against the petitioner.

Having regard to the aforementioned facts and circumstances, this court deems it fit and proper to direct the confiscating authority to release the truck bearing registration no. WB-29/6277, Engine no. 50B62386692 in favour of the petitioner

on furnishing sufficient security/ surety/ guarantee to the satisfaction of the Collector, Bhojpur with a further condition that he will verify regarding the claim of respondent no. 4 and the financed amount for the purchase of the truck by the petitioner which was seized in connection with the aforesaid police case.

The release would be subject to the result of the confiscation case as well as the final result of the criminal case concerned. It is expected that the whole exercise would be completed within a period of 08 weeks from the date of receipt/ production of a copy of this order.

The petitioner would not dispose of the truck during the pendency of the aforesaid cases.

This disposes of the writ petition.

**(Dr. Ravi Ranjan, J.)**

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