

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.183 of 2016

Arising Out of PS.Case No. -108 Year- 2007 Thana -C.B.I CASE District- MUZAFFARPUR

- =====
1. Ram Parikshan Gupta Son of late Saudagar Sahu Resident of Village- Dhanrhi, PS Andhara Dhanrhi, District Madhubani.
 2. Pushpa Kumari @ Pushpa Gupta Wife of Ram Parikshan Gupta Resident of Village- Dhanrhi, P.S.- Andhara Dhanrhi, District Madhubani.
 3. Rishi Raj son of Ram Parikshan Gupta, resident of Village- Dhanrhi, PS Andhara Dhanrhi, District Madhubani.
 4. Rajiv Ranjan Son of Sri Aghanhu Sahu Resident of Village: Dhanrhi, PS Andhara, Dhanrhi District Madhubani.

.... Appellants

Versus

1. The State of Bihar
2. The Director General of Police, Department of Home, Government of Bihar, Patna.
3. The Principal Secretary, Vigilance Department, Bihar, Patna.
4. Sri Arvind Kumar son of Sri Vidya Prasad Singh, Police Inspector, Vigilance, Investigation Bureau , Vigilance Department , Bihar Patna.

.... Respondents

=====

Appearance :

For the Appellant/s : Mr. Arun Kumar, Advocate

For the Respondent/s : Mr. Binod Bihari Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-05-2016

The present memo of appeal under Section 17 of the Bihar Special Courts Act, 2009 has been filed against the order dated 27th July 2015 passed in Confiscation Case No. 07 of 2012 by the Authorized Officer -cum- Special Judge, Vigilance-1, Muzaffarpur whereby and whereunder petition dated 17.03.2015

and petition dated 16.06.2015 have been rejected.

2. The application dated 17.03.2015 was filed by the appellant no. 1 before the Authorised Officer-cum-Special Judge with a prayer to quash the entire proceeding of the confiscation case on the ground that no declaration was made under Section 5 of the aforesaid Act, 2009 and Rule 7 of the Bihar Special Court Rules, 2010. Similarly, the application dated 16.06.2015 was filed by the appellants no. 2 to 4 for supply of the copy of Gazette Notification made under Section 5 of the aforesaid Act and Rule 7 of the aforesaid Rules.

3. By order dated 27th July, 2015, the learned Authorized Officer rejected both the aforesaid applications preferred by the appellants.

4. The contention of the learned counsel for the appellants is that before filing the confiscation application, the declaration as required under Section 5 of the aforesaid Act 2009 and Rule 7(2) of the aforesaid Rules, 2010 was never notified by the Government in the official Gazette. The further contention is that in absence of the Gazette Notification, the entire proceeding initiated before the Authorised Officer against the appellants is vitiated.

5. I have heard learned counsel for the appellants

and perused the counter-affidavit filed on behalf of the State.

6. It would be evident from Annexure-A to the counter affidavit that before filing the confiscation application, a declaration was already issued by the Government and it was also notified in the supplementary Gazettee under Section 5 of the Act, 2009 and Rule 7(2) of the Rules, 2010.

7. Apparently, the entire pleading of the appellants is baseless and erroneous.

8. In that view of the matter, I do not find any merit in this appeal. Accordingly, the appeal is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

U		T	
---	--	---	--