

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.800 of 2017**

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1. Mahesh Rai, S/o Late Saryug Rai  
2. Tribhuwan Rai, S/o Late Saryug Rai, Both Resident of Mohalla-Tilak  
Maidan Road, Ezazi Marg, Kurmi Tola, P.S.-Town, District-Muzaffarpur  
.... Petitioners

Versus

1. The State of Bihar Through The Principal Secretary, Exise Department,  
Govt. of Bihar, Patna  
2. The Principal Secretary, Excise Department, Govt. of Bihar, Patna  
3. The Collector-cum-Magistrate, District-Muzaffarpur  
4. The Superintendent Excise, Muzaffarpur .... Respondents

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**Appearance :**

For the Petitioners : Mr. Hari Kishore Thakur, Adv.  
For the Respondents : Mr. Anil Kumar Sinha, GA I

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**  
**ORAL ORDER**

3      30-08-2017                      Heard the parties.

The petitioners are full brothers of Triloki Rai, the father of Amit Kumar @ Banti. Amit Kumar @ Banti is proprietor of Shahi Darbar Restaurant. From the restaurant, aforesaid, liquor was allegedly recovered by the police and Excise Case No. 275 of 2016 was registered. In that very case, the restaurant as well as other adjoining lands were sealed by the police and Confiscation Case No. 34 of 2016-2017 has been initiated by the Collector, Muzaffarpur, for confiscation of the same.

Prayer of the petitioners in this writ application is for release of the portion of the land which was of the petitioners allotted in mutual partition, dated 11.07.2015, vide Annexure 1.

Till adjudication of the dispute, by a larger Bench of this Court in **L.P.A. No. 1647 of 2015 (Baleshwar Roy Vrs. The State of Bihar & Ors.)**, whether the executive authority can confiscate and sell, which power is exercisable by a judicial



authority, let the operation of the impugned proceeding remain stayed.

The respondents are directed to immediately release the seized land and restaurant in favour of the owner thereof. The release shall be subject to the result of L.P.A. No. 1647 of 2015.

In the meantime, the petitioners shall not dispose off or put under encumbrance of the aforesaid property.

With the aforesaid observations, this application stands **disposed off**.

**(Birendra Kumar, J)**

SA/-

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