

# IN THE HIGH COURT OF JUDICATURE AT PATNA

## Criminal Writ Jurisdiction Case No.1379 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- SITAMARHI

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1. Laxmi Sah, Son of Late Arjun Sah, R/o Village- Rain Bishuni, P.S.-  
Runisaidpur, District- Sitamarhi.

.... .... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home Department, Bihar, Patna.
2. The Collector-cum-District Magistrate, Sitamarhi.
3. That Superintendent of Police, Sitamarhi.
4. The S.H.O. Runisaidpur Police Station, Sitamarhi.
5. The Principal Secretary, Excise Dept.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Virendra Kumar, Advocate

For the Respondent/s : Mr. P.N. Shahi, AAG-6

Mr. Sanjeet Kumar Sinha, AC to AAG-6

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

ORAL JUDGMENT

**Date: 01-09-2017**

Heard learned counsel for the parties.

2. The house of the petitioner was sealed when some liquor was recovered and Runnisaidpur P.S. Case No.143 of 2016 was registered. Thereafter, for confiscation of the house Confiscation Case No.45 of 2016 was initiated by the Collector, Sitamarhi on the recommendation of Superintendent of Police, Sitamarhi, vide Letter No.2374 dated 22.06.2016.

3. The petitioner has challenged the aforesaid initiation of confiscation proceeding in this writ application on the ground that executive authority has no power to confiscate the house in a preliminary manner, which is a power exercisable by a judicial authority and the matter is already subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 (Baleshwar Roy V. The**



**State of Bihar & Ors.).** He further submits that a Division Bench of this Court in Cr.W.J.C. No.605 of 2016 in similar circumstances has ordered unsealing of the premises. In the circumstances, till the decision of the L.P.A. aforesaid, further proceeding of Confiscation Case No.45 of 2016, arising out of Runnisaidpur P.S. Case No.143 of 2016, may kindly be stayed and the premises be unsealed by way of interim measure.

4. Learned counsel for the State-respondents prays for time for seeking instruction and filing counter affidavit.

5. Since the authority of the confiscation officer is under challenge before a larger Bench of this Court in the referred L.P.A. It is directed that confiscation proceeding shall remain stayed till disposal of the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

6. Considering the urgency of the matter and the aforesaid binding precedent, let the respondent authorities immediately unseal the premises of the petitioner and handover the possession of the house to the petitioner.

7. With the aforesaid observation, this application stands disposed of.

**(Birendra Kumar, J)**

Mkr./-

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| AFR/NAFR          | NAFR       |
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