

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2474 of 2017

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

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Gyanti Devi, wife of Bhola Singh @ Mithlesh Kumar, resident of Village-
Gopalpur, P.S. Nayagaon, District- Saran at Chapra. Petitioner

Versus

1. The State of Bihar through the Chief Secretary of Bihar, Patna.
 2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
 3. The Collector cum District Magistrate, Saran.
 4. The Superintendent of Police, Saran.
 5. The S.H.O. Nayagaon Police Station, District- Saran at Chapra. Respondents
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Appearance :

For the Petitioner/s : Mr. Udai Shankar Singh, Adv.

For the Respondent/s : Mr. Kumar Manish, S.C.-5.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the parties.

2. Huge quantity of foreign liquor was allegedly recovered from the house of the petitioner for which Nayagaon P.S.Case No. 33 of 2016 was registered under Sections 272, 273 of the Indian Penal Code and 47(A) of the Excise Act against the petitioner. Subsequently the said house was sealed along with the land by order of the Collector, Saran, Chapra.

3. The petitioner has challenged the aforesaid order in this writ application on the ground that executive authority has no power to confiscate in a preliminary manner, which is a power exercisable by a judicial authority and the matter is already sub judice 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 (Smt. Manorama Devi @ Manorma Devi vs. The State of Bihar & Ors.)** in similar circumstances has ordered unsealing of the premises.

4. Considering the urgency of the matter and the aforesaid binding precedent, let the respondent authorities immediately unseal the house of the petitioner and handover its possession, with further condition that the petitioner shall not dispose of the said house or put under encumbrance without permission of the Collector concerned.

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

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.12.2017
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