

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1208 of 2017

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

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1. Asha Devi, W/o Babloo Raut, Ward No. 1, Resident of Village- Piprahi, P.S.- Piprahi, District- Sheohar.
 2. Jagannath Mahto @ Bharthu Mahto, son of Sukhadi Mahto, resident of Ward No.1, Village-Piprahi, P.S. Piprahi, District- Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Deptt.
2. The Principal Secretary, Department of Home Affairs, Government of Bihar, Old Secretariat, Patna.
3. The Director General of Police, Government of Bihar, Old Secretariat, Patna.
4. The District Magistrate, Sheohar, District- Sheohar.
5. The Superintendent of Police, Sheohar.
6. The S.H.O. Police Station Piprahi, District- Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumod Kumar Shrivastav, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 12-10-2017

Heard learned counsel for the parties.

2. The house of the petitioners was sealed in connection with Piprahi P.S. Case No.31 of 2016 registered for the alleged violation of the Bihar Excise Law. Subsequently, confiscation Case No.38 of 2016 was started by the Collector, Sheohar and by order dated 12.06.2017 the referred house and land has already been confiscated.

3. Submission of the learned counsel for the petitioner is that the petitioner has challenged the aforesaid confiscation order in



this writ application on the ground that the executive authority has no power to seize and confiscate the vehicle or house which is a power exercisable by a judicial authority. Prayer is that similar question is involved and pending in **LPA No.1647 of 2015 (Baleshwar Roy V. The State of Bihar & Ors.)** before a larger Bench of this Court. Hence, by way of ad interim measure the operation of the impugned order be stayed and the respondent-authorities be directed to unseal and release the house of the petitioners.

4. After hearing the parties and considering the fact that similar issue is pending before the larger Bench of this Court, let the referred house of the petitioners be unsealed and possession thereof be handed over to the petitioners, on the petitioners filing an undertaking that they would not dispose of the same or put under encumbrance without permission of the Collector, Sheohar. The interim order shall be subject to the result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2017
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