

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2360 of 2017

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

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1. Md. Karim @ Md. Abdul Karim S/o Late Ajijur Rahman, R/o Mohalla- Satal Nihal Part Ward No. 14, P.S.- Bahadurganj, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Registration, Excise And Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Kishanganj.
3. Superintendent of Police, Kishanganj.
4. The Excise Commissioner, Bihar, Kishanganj.
5. Officer In Charge, Bahadurganj, Kishanganj.
6. Sahanwaz Son of Talimuddin, R/o Village- Rurail Ward No. 6, P.S.- Bahadurganj, District- Kishanganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the parties.

2. The premise of the petitioner situated at Khata No.90, Kheshra No.720/66D and Kheshra No.727/1, was sealed in connection with Bahadurganj P.S. Case No.130 of 2017 registered for the alleged violation of the Bihar Excise Law. Subsequently, Confiscation Case No.346 of 2017-18 was started by the Collector, Kishanganj and by order dated 10.10.2017 the referred premise has 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 petitioner be unsealed and possession thereof be handed over to the petitioner, on the petitioner's filing an undertaking that they would not dispose of the same or put under encumbrance without permission of the Collector, Kishanganj. The interim order shall be subject to the result of the pending L.P.A. aforesaid.

5. Let operation of the confiscation proceeding remain in abeyance till disposal of the L.P.A. aforesaid and shall be subject to the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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