

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1308 of 2017

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Rajesh Kumar, S/o Late Bindeshwari Prasad, Residence of Vill. - Lodhi (Barawn), P.S. - Sasaram (M), Dist. - Rohtas (Sasaram).

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Forest Department, Government of Bihar, Patna.
2. The Chief Conservator of Forest, Bihar, Patna.
3. The District Magistrate, Rohtas, Sasaram.
4. The Authorized Officer-Cum - Divisional Forest Officer, Rohtas, Sasaram.
5. The District Forest Officer, Rohtas, Sasaram.
6. The Range Officer, Sasaram Forest area at Sasaram.
7. The Forester Tilauthu Cum Darigaon, Forest Circle District - Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Kumar

For the Respondent/s : Mr. Dhurjati Kr. Prasad- GP-14

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-08-2017 Heard Mr. Ranjit Kumar, learned Counsel appearing on behalf of the petitioner and Mr. Dhurjati Kumar Prasad, learned GP-14, appearing on behalf of the respondent State.

The present Writ application has been filed for a direction to the respondent authorities for provisional release of the vehicle (Mahendra Tractor Shaktiman), bearing Chassis/Engine No.3540200401, Registration No. BR26A/3066, which has been confiscated, vide order dated 03.08.2016, passed by the Authorized Officer-cum-Divisional Forest Officer, Rohtas, in Confiscation Case No.46 of 2016, arising out of Forest Case



No.14 of 2016. In alternative, prayer has been made for directing Respondent No.3, the District Magistrate, Rohtas, Sasaram to dispose of the Confiscation Appeal No.48/2016, preferred by the petitioner against the order of confiscation dated 03.08.2016, passed by the Authorized Officer-cum-D.F.O., Rohtas in Confiscation Case No.46 of 2016.

The factual matrix of the case is that on the report of the Forest Guard the tractor in question was seized which was loaded with 80 CFT stone chips leading to registration of Forest Case No. 14 of 2016 with accusations under Sections 33, 41, 42 of the Indian Forest Act. Subsequently, Confiscation Case No. 46 of 2016, was initiated by the Authorized Officer-cum-D.F.O., Rohtas, Forest Division, Sasaram, vide order dated 03.08.2016, confiscated the tractor along with loaded 80 CFT stone chips. Consequently, the petitioner challenged the said order by preferring Confiscation Appeal No.48 of 2016, before Respondent No.3, the District Magistrate, Rohtas at Sasaram, which is still pending.

It is submitted by learned Counsel appearing on behalf of the petitioner that the tractor in question was stolen on 05.11.2015 which was parked near community hall, situated in Village- Keshav Bigha as some construction company had hired



the tractor of the petitioner. Consequently, the petitioner lodged Akaudhi P.S. Case No.113/2015, registered under sections 379/34 of the Indian Penal Code, as contained in Annexure-2, but the miscreants were using the tractor by changing the registration number and ultimately, the tractor was seized in the present Forest Case No. 14 of 2016 on 11.02.2016. Since the registration number of the tractor in question was changed, hence, the petitioner was not aware about the seizure. The petitioner never received any notice during the confiscation proceeding nor does it appear from the order dated 03.08.2016, passed in Confiscation Case No. 46 of 2016, as contained in Annexure-1, that the petitioner is a party to the said proceeding. The tractor of the petitioner is rotting in the open air and the Confiscation Appeal No. 48/2016, preferred by the petitioner is not being disposed of by the appellate authority. Hence, the present writ application.

Mr. Dhurjati Kumar Prasad, learned GP-14, appearing on behalf of the respondent - State submits that paragraph 3 of the impugned order dated 03.08.2016 reflects that after due notice, when no one came to claim the tractor in question, then by an *ex parte* order the tractor and the loaded stone chips were confiscated. It is further submitted that the appeal of the petitioner will be disposed of within a time frame.



Considering the rival submission of the parties, this Court is not inclined to consider the provisional release of the petitioner's tractor in view of the fact that the release of the tractor has never been claimed during pendency of the confiscation proceeding. However, it is expected from the respondent no.3, the District Magistrate, Rohtas at Sasaram to dispose of the appeal of the petitioner being Confiscation Appeal No.48 of 2016, after giving due notice to all the affected persons in accordance with law within a period of two months from the date of receipt/production of a copy of this order. If respondent no.3, the District Magistrate, Rohtas at Sasaram fails to dispose of the appeal, within the stipulated time frame, he may consider the provisional release of the vehicle in question in accordance with law.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

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