

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1616 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Daymanti Devi Wife of Gore Lal Yadav, resident of Village- Panditpur, P.S. Rajgir, District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department.
2. The District Magistrate, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. L.N. Das, Advocate
Mr. Akhilesh Dutta Verma, Advocate
For the Respondent/s : Mrs. Manisha Singh, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 18-09-2017

Heard the learned counsel for the parties.

2. Three bottles of foreign liquor were allegedly recovered from the house of the petitioner for which Rajgir P.S.Case No. 144 of 2016 was registered under Section 47 (a) of the Excise Act against the named accused persons. Subsequently Confiscation Case No. 08 of 2017 was initiated and by order dated 27.07.2017 the said house standing on Khesra No. 1547 under Khata No.17 an area of 5 decimal has been confiscated along with the land.

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 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.

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

5. 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.

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

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2017
Transmission Date	19.09.2017

