

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1759 of 2017

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

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Radha Devi wife of Mohan Singh

.... Petitioner/s

Versus

The State of Bihar Through The Principal Secretary Excise Department
Government of Bihar, Patna & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nakul Kumar Jamuar, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the parties.

2. The house of the petitioner was sealed in connection with Barahiya P.S. Case No.191 of 2016 registered for the alleged violation of the Bihar Excise Law as 6.5 liters of foreign liquor was allegedly recovered from the said house.

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



respondent-authorities be directed to unseal and release the house of the petitioner.

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, Lakhisarai. 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
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