

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1538 of 2017

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

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Veena Devi, Wife of Gopal Sharan Singh, Resident of Village Barahiya, Dhanraj Tola, Ward No. 17, P.S. Barahiya, District Lakhisarai

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition and Registration, Govt. of Bihar, Patna.
2. The Collector cum District Magistrate, Lakhisarai.
3. The Superintendent of Police, Lakhisarai.
4. The Police Inspector cum Officer In charge, Barahiya Police Station Barahiya, District Lakhisarai.
5. The Sub Inspector of Police, namely Avinash Kumar Sharma, the informant of Barahiya, P.S. Case No. 105/2017, Barahiya, P.S. District- Lakhisarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Om Prakash Maharaj, Advocate

For the Respondents : Mr. Anil Kumar Sinha, GA 1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-09-2017

Heard learned counsels for the parties.

Learned counsel for the petitioner is permitted to correct the Khata number in paragraph no. 1 of the writ application in course of the day.

This writ application has been preferred for quashing the notice dated 10.08.2017 issued by the District Magistrate, Lakhisarai in connection with Confiscation (Excise) Case No. 29 of 2017 arising out of Barahiya P.S. Case No. 105 of 2017 a case under the Excise Act calling upon the petitioner to explain why the sealed premise bearing Khata No. 219, Khesra No. 3835, area 08 decimals vide Jamabandi No. 1059, be not confiscated and auctioned.



Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority have power to confiscate and seal the house seized in connection with the aforesaid case which power, is exercisable only by a Judicial Authority, is sub judice before a large Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). In the circumstances, till the decision of the L.P.A. aforesaid, further proceeding of Confiscation (Excise) Case No. 29 of 2017 arising out of Barahiya P.S. Case No. 105 of 2017 may kindly be stayed and the house be unsealed by way of interim measure.

Learned counsel for the petitioner placed reliance on a judgment of this Court in a case of **Smt. Manorama Devi @ Manorma Devi vs. The State of Bihar & Ors.** (Cr.W.J.C. No. 605 of 2016) relevant part whereof is reproduced hereinbelow:

“Learned counsel for the petitioner confines to the prayer made in this writ petition to unsealing residential premises of the petitioner, from where allegedly a few bottles of liquor were recovered less than one month after the notification was issued on 05.04.2016.

Considering the facts and circumstances and considering the various orders that have been passed in various cases, we direct that the premises of the petitioner be unsealed without prejudice to the State in respect of any



other matter which would be disposed of in accordance with law.”

Considering the facts and circumstances of the case, let the respondents, immediately, unseal the house of the petitioner and hand over its possession to the petitioner, subject to the result of L.P.A.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	13.09.2017
Transmission Date	13.09.2017

