

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2606 of 2017

Arising Out of P.S.Case No. -null Year- null Thana -null District- MUZAFFARPUR

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Ashok Chaudhary @ Ashok Kr. Chaudhary, Son of Late Jagdeo Chaudhary, R/o Vill Saketpuri, Bibiganj P.S. Sadar Bhagwanpur, Distt. Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Deptt., Patna.
2. The District Magistrate, Muzaffarpur.
3. The Superintendent, Excise Department, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Sub-Divisional Officer, Muzaffarpur.
6. The Circle Officer, Mushari Muzaffarpur.
7. The O/C Sadar, P.S. Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Adv.

For the Respondent/s : Mr. Kumar Manish, S.C.5.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-12-2017

Heard the learned counsel for the parties.

2. Six bottles of foreign liquor were allegedly recovered from the house of the petitioner for which Muzaffarpur Sadar P.S.Case No. 428 of 2016 was registered under Section 47 (a) of the Excise Act against the named accused person. Subsequently Confiscation Case No. 54 of 2017-18 was initiated and by order dated 10.08.2017 the said house standing on Khesra Nos. 113 and 114 under Khata No.357 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. 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.

5. Further proceeding of Confiscation Case No. 54 of 2017-18 shall remain stayed 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)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.12.2017
Transmission Date	22.12.2017

