

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2879 of 2017

Arising out of Case No. - 171(O) Year- 2016 Thana - District- BUXAR

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Ravi Kumar Gupta, Son of Late Devendra Kumar Gupta, Resident of Mohalla-Chini Mill, Gajadharganj, Buxar (Rajendra Hotel) Munim Chowk Buxar, P.S.- Buxar (T), District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Buxar.
2. The Superintendent of Police, Buxar.
3. The Superintendent Excise Department, Buxar.
4. Sub- Inspector, Excise Department, Sadar, Buxar.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate.
For the Respondent/s : Mr. Vikash Kumar, SC XI.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 09-01-2018

Heard learned counsel for the petitioner and learned counsel for the State.

The present application has been filed for a direction commanding the respondent authorities to release / unlock Room No. 101 of the petitioner's hotel, namely, Rajendra Hotel situated at Munim Chowk, Buxar.

It is stated that the said one room has been sealed in connection with Case No. 171(O)/2016 (State Vs. Ravi Kumar Gupta) for the offence U/S 47(a), 53(a)(b) & (c) of the Bihar Excise Amendment Act, 2016.

Learned counsel for the petitioner submits that the only



allegation is that 10 empty wine bottles were found in the said Room No. 101 of the hotel of the petitioner. It is further stated that a confiscation proceeding has been initiated but till date it has not been concluded and the power of the Collector-cum-District Magistrate to initiate such a confiscation proceeding itself is under challenge in several cases before this Court. In one of the cases, being LPA No. 1647/2015 arising out of the case under the E.C. Act, a Division Bench of this Court is considering the issue as to whether the executing court can initiate a confiscation proceeding. The prayer is that the room in question should be released / unsealed / unlocked on such terms and conditions which may be imposed by this Court.

Learned counsel for the State is present and submits that a confiscation proceeding has been earlier initiated.

In the facts and circumstances of the case, let Room No. 101 of the hotel, namely, Rajendra Hotel situated at Munim Chawk, Buxar be opened and handed over to the petitioner subject to the terms and conditions that the petitioner is found to be the owner of the said hotel and the petitioner furnishes a surety bond (not in form of cash or bank guarantee) worth Rs. 5,00,000/- (Five lakhs) with two sureties of the like nature to the satisfaction of the District Magistrate, Buxar.

The District Magistrate, Buxar shall get prepared a



photograph duly certified and a Panchanama of the room in sealed condition before opening of the same and the same will be kept on the record.

The petitioner undertakes not to challenge the said photograph and Panchnama in course of trial or the confiscation proceeding, as the case may be.

The petitioner shall also give an undertaking that he will not deal with the property in question as a whole in favour of any third party or create any interest adverse to the interest of the State without permission of the Court and shall not allow any illegal act to be committed in the premises of the hotel in question.

The application stands disposed of with the directions aforesaid.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.01.2018
Transmission Date	10.01.2018

