

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1167 of 2015

=====

Ajay Pati Tiwary, S/o Late Ramakant Pati Tiwary, Resident of Village- Majharia,
P.S.- Bahiroganj, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector-cum-District Magistrate, West Champaran at Bettiah.
 2. The Collector-cum-District Magistrate, West Champaran at Bettiah.
 3. The Sub-Divisional Officer-cum-Sub-Divisional Magistrate, Bagaha, District- West Champaran.
 4. The Executive Magistrate, Bagaha, West Champaran.
 5. Mithilesh Pati Tiwary
 6. Brijendra Pati Tiwary
 7. Madhusudan Pati Tiwary
 8. Ripusudan Pati Tiwary
- All sons of Late Saraswati Pati Tiwary, Resident of Village- Majharia, P.S.- Bahiroganj, District- West Champaran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
For the State : Mr. Harish Kumar, GP-8
For the Respondent nos.5to8 : Mr. Shailesh Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
Date: 27-07-2018

Challenge in the present writ application is to the order dated 05.06.2015 passed by respondent no.4. By the impugned order he has directed the Receiver, whose appointment has already been cancelled by virtue of the order passed by this Court in Cr.Misc.No.15044 of 2013, to release the amount lying with him in favour of the private respondents. It appears on perusal of the order dated 22.05.2015 passed in Cr.Misc.No.15044 of 2013 that this Court



having heard learned counsel for the parties had quashed the composite order dated 13.03.2013 passed under Sections 145 and 146(1) Cr.P.C. in Case No.99 of 2013. Once the order passed under Section 145 and 146(1) Cr.P.C. were quashed, nothing remained pending with the Sub-Divisional Officer, Bagaha, West Champaran, in these circumstances he passed the impugned order dated 05.06.2015 directing the Circle Officer, Bagaha to release the seized amount in favour of Sri Ripusudan Tiwary.

Learned counsel for the petitioner submits that the Sub-Divisional Officer, Bagaha was not justified in directing the release of the amount in favour of Sri Ripusudan Tiwary without hearing him in the matter. Learned counsel has further drawn attention of this Court towards the order dated 10.06.2015 wherein it is stated that the first party (present petitioner) appeared before the Executive Magistrate and demanded the amount received against the sugarcane which were seized by the Executive Magistrate but the claim of the present petitioner was rejected. It is the submission of the learned counsel for the petitioner that the order dated 10.06.2015 is illegal and bad in law. However, when the attention of this Court was drawn by the learned counsel representing the State that so far as the order dated 10.06.2015 is concerned, the same is not under challenge in the present case, learned counsel for the petitioner could not controvert



the said submission of the learned counsel for the State.

Learned counsel representing the private respondents in this case has submitted that so far as the impugned order dated 05.06.2015 is concerned, no illegality may be found with the same inasmuch as once the Hon'ble High Court had quashed the order passed under Section 145 Cr.P.C. and the order by which the Receiver was appointed, nothing remained for adjudication before the Executive Magistrate, Bagaha at West Champaran. In such circumstance, if the money has been released in favour of the second party, who are the private respondents, no wrong has been committed by the Receiver.

Having heard learned counsel for the parties and on perusal of the records, this Court finds force in the submission of the learned counsel representing the State as well as the private respondents. While it is true that the order dated 10.06.2015 is not under challenge in the present writ application, it is also find true that after passing of the order dated 22.05.2015 by this Court in Cr.Misc.No.15044 of 2013, nothing remained pending before the Executive Magistrate, Bagaha and he was obliged to release the money in favour of the second party at whose instance the Hon'ble High Court had set aside the order initiating proceeding under Section 145 Cr.P.C. and appointment of Receiver by invoking the emergency



provision under Section 146(1) of the Code of Criminal Procedure.

This Court does not find any merit in the writ application. It is, accordingly, dismissed. A liberty, however, is granted to the petitioner to assail the order dated 10.06.2015, if so advised, in accordance with law.

In future, if the possession of the petitioner is proved, he may be at liberty to apply for consequential reliefs.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.07.2018
Transmission Date	30.07.2018

