

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5653 of 2017

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Jai Kishore Rai, son of Uma Shankar Rai, Proprietor of J.H.K. Traders,
resident of Mohalla- Krishna Nagar, Near Kali Mandir, Premchand Path,
Gaurakshni, P.O. and P.S.- Sasaram, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Forest Department, Govt. of Bihar, Patna.
2. The Collector, Rohtas
3. The Divisional Forest Officer, Sasaram Forest Division, Sasaram, District- Rohtas.
4. The Officer-in-Charge, Muffasil Police Station, Sasaram, District- Rohtas.
5. The Forestor, Tilauthu-cum-Darigaon, Sasaram, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2
For the Respondent/s : Mr. CHITRANJAN SINHA- PAAG2

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 20-02-2018 Learned counsel for the petitioner is permitted to make
necessary correction in the array of respondents.

This matter has been taken up on the joint prayer of the
learned counsel for the petitioner and AC to PAAG-2.

The present writ application has been filed for release of
two Highwa trucks bearing Registration number BR 24L
1025 and BR 24L 0925, which were seized in connection
with Forest Case No. 86 of 2015 during the pendency of
Confiscation Appeal No. 60 of 2016 before the Collector,
Rohtas.



The factual matrix of the case is that on 5.10.2015 Lalan Mochi, the Forest Guard, Tilauthu heard some noise within the forest premises and when he proceeded to verify, he found certain vehicles escaping from the scene, loaded with stone or stone dust. Seven vehicles were intercepted, out of which, two vehicles belonged to the petitioner's firm on which 600 cft. and 700 cft. stone dust were loaded. Consequently, Forest Case No. 86 of 2015 was registered under sections 41 and 42 of the Indian Forest (Bihar Amendment 1990) Act, 1927. Subsequently, Confiscation Case No. 180 of 2015(E,F) was initiated and the Forest Officer-cum-DFO, Rohtas, vide order dated 16.9.2016, as contained in Annexure 3, confiscated the aforesaid two Highwa trucks along with stone dust.

It is submitted by learned counsel for the petitioner that the order dated 16.9.2016 passed by the Forest Officer-cum-DFO, Rohtas (confiscation authority) was challenged by the petitioner in Appeal No. 60 of 2016 before the Collector, Rohtas. In the said confiscation appeal, the petitioner preferred an application for interim release of the vehicles in question on 3.3.2017, but the same is pending since then. Hence, the present writ application.



It is further submitted by learned counsel for the petitioner that earlier the petitioner preferred Criminal writ application being Cr.W.J.C. No. 1272 of 2015 for release of the aforementioned two vehicles but the same was permitted to be withdrawn by a bench of this court vide order dated 19.5.2016. It is also submitted that there is no use allowing the two vehicles in question to rot in open air.

A.C. to PAAG 2 submits that at present he is not having any instruction whether the appeal of the petitioner or interim application has been disposed of or not.

In view of the fact that the present writ application was filed on 13.4.2017 but no counter affidavit has been filed till date, this Court is not inclined to adjourn the matter any further.

Considering the rival submissions of the parties, this Court is dismayed to find that the interim application or the appeal of the petitioner is pending since last about 11 months.

In the circumstances, the District Magistrate, Rohtas is expected to dispose of the appeal within a period of two months in accordance with law and if, for any reason, the District Magistrate, Rohtas is not in a position to dispose of



the appeal, he will consider and dispose of the application of the petitioner filed for interim release of the vehicles in question during the pendency of appeal, without being prejudiced by this order.

(Dinesh Kumar Singh, J)

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