

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15028 of 2017

=====

Sahdev Rai Son of Late Mohit Raj, Resident of Village- Baswariya Tola, P.S.
+ District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Collector-cum- District Magistrate, Sitamarhi.
5. The Deputy Superintendent of Police, Sitamarhi.
6. The Excise Superintendent, Sitamarhi.
7. The Officer-in- Charge, Sitamarhi, P.S.- Sitamarhi, District- Sitamarhi.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar, Advocate
	:	Mr. Subodh Kumar, Advocate
For the Respondent/s	:	Mr. Kumar Manish - SC-5

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-06-2018

Petitioner, who is owner of the property in question, named Louyalla School, situated at Basbariya (Mehsul), Ward No. 1, appertaining to Khata No. 526, Plot No. 797, area 24¼, feels aggrieved by sealing and dispossessing him from the room in question.

It is the case of the petitioner that he being owner of the property consisting of eight rooms gave it on rent for a period of 11 months at the rate of Rs. 10,000/- per month vide Rent Agreement (Annexure-3 to the writ application) for the



period in question and while the property was so leased out, it is stated that the authorities of Police Station Sitamarhi (Mehsaul) registered P.S. Case No. 165 of 2017 for offences under Section 272, 273 I.P.C. read with Section 30(A) of the Bihar Excise (Amendment) Act, 2016 on account of certain acts of commission and omission which accrued in the premises in question on 11.03.2017 wherein the accused persons in the said case who were occupying the rented premises were shown to have indulged in storing the wine and Beer in the premises which was seized. Inter alia contending that the petitioner as owner has nothing to do with the commission of the offence and it is the tenants or their agents who were indulged in the aforesaid act, the petitioner seeks for release of the property in question and quashing the confiscation proceedings initiated against the petitioner vide Confiscation Case No. 135/2017 initiated by the authorities of district Sitamarhi.

This Court while issuing notice to the respondents had by an interim order passed on 17.10.2017 directed for release of the property in question on certain conditions. From Paragraph 21 of the counter affidavit filed by Respondent Nos. 4 to 6 we find that on account of non-furnishing of security, the property in question (the room) has not been released to the



petitioner.

Be it as it may be, as it is the case of the petitioner that he is not responsible for the offence in question, it is the tenants to whom the property was leased out who are responsible, we are of the considered view that if that be so, no case for confiscation is made out against the petitioner, but at the same time it would be for the authorities proceeding with the confiscation case to enquire into this aspect of the matter and pass an appropriate order in the confiscation proceedings which are pending.

Keeping in view the aforesaid, we allow this petition in part and dispose it of with the following directions:-

In case the petitioner complies with the directions already issued by us on 17.10.2017 then pending finalization of the confiscation proceedings, the room in question be unsealed and possession granted to the petitioner. That apart, in the confiscation proceedings pending the petitioner be noticed, he be impleaded and he be granted opportunity to submit his defence and objection and after considering the same the Confiscation Proceedings shall be finalized. In case on inquiry in the confiscation proceeding it is established by the petitioner that he is owner of the property and has rented the premises and



is not responsible for the offence committed in the rented premises, the confiscation proceedings shall be dropped and no action for confiscation shall be initiated with regard to the property in question which is under ownership of the petitioner.

With the aforesaid, the petition stands allowed and disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	30.06.2018
Transmission Date	

