

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2746 of 2018

Arising out of Nasriganj P.S. Case No.225 of 2017, District-Rohtas.

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Om Prakash, S/o Late Shiv Kumar, Resident of Lane No.03, Pirmuhani,
Kadam Kuan, P.S. Gandhi Maidan, Distt.-Patna, Bihar

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, New Secretariat, Patna
2. The Superintendent of Police, Rohtas
3. The Collector, Rohtas
4. The Officer-in-Charge, P.S. Nasirganj, Distt.Rohts

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saket Gupta, Adv.

For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

- 2 06-11-2018 Petitioner in the present case is a retired employee of the State Bank of India, he had got share in plot no.1761 under Khata No.337 in village Nasriganj measuring area 6.66 decimals. The share was allotted to all the co-sharers in the same plot vide judgment and decree passed in Title Partition Suit No.85 of 1990 by the learned Sub-Judge-III, Sasaram. As per the allegations in the First Information Report when a raid was conducted in the premises in question, 347 pieces of Pouch each containing 200 ml of illicit country made liquor were recovered from the premises. In the seizure list the name of the nephew of this petitioner has been shown and he was made accused in a police case.



Learned counsel submits that since all the co-sharers had got their portion of the land in the same plot, the other co-sharers have constructed their house whereas the portion of this petitioner was left in a thatched condition and taking benefit of the absence of the petitioner same was allegedly misused for storing the illicit liquor. Learned counsel submits that in the present circumstance where the petitioner is not residing there and in his absence the premises were allegedly being used, he is looking for provisional release of his thatched house and premises to the extent of the area being 6.66 decimal in plot no.1761/3469 falling under Khata no.337 in village Nasriganj. Learned counsel submits that the petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court. Learned counsel has also submitted that till date no notice of initiation of any confiscation proceeding with respect to the land/premise in question has been issued.

Learned counsel for the State is present and has pointed out from the impugned order dated 18.08.2018 passed by the learned Additional District & Sessions Judge-II-cum-Special Judge, Excise, Rohtas, Sasaram that the petitioner could not produce any document of title in respect of the land/house in question.



In the aforesaid facts and circumstances of the case, taking note of what is appearing from the judgment and decree passed by the learned Sub-Judge and the fact that no confiscation proceeding has been initiated as on date, this Court directs release/unsealing of the premise of the petitioner being plot no.1761/3469 under Khata No.337 in village Nasriganj on the petitioner submitting duly attested copy by a notary of the judgment and decree of the court passed in the Title Partition Suit No.85 of 1990 together with rent receipts showing that the petitioner is paying rent in respect of the portion of his share, in the court below with an undertaking that he will not deal with the house in question and shall not create any kind of encumbrance whatsoever in respect thereof during the pendency of the present case. The petitioner would also be obliged to submit personal surety as well as one surety to the extent of the value of the land as per circle rate in the court below. On fulfillment of the aforesaid conditions within a week, the land/premise in question shall be provisionally released and possession handed over pending initiation or finalization of the confiscation proceeding.

The application stands disposed off.

Arvind/-

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(Rajeev Ranjan Prasad, J)

