

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16894 of 2017

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1. Rajesh Ranjan @ Rajeev Ranjan Yadav @ Rajesh Ranjan Yadav, Son of late Kameshwar Yadav
 2. Gayatri Devi, Wife of late Sanjay Kumar Yadav
 3. Vishwajit Kumar Yadav @ Kiran Kumar Yadav, Son of late Kameshwar Yadav
All resident of Village: Singhara (Tanra), Police Station - Mahua, District Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise & Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-Cum-Confiscation Officer, Hajipur, District- Vaishali.
3. The Superintendent of Police, Hajipur, District - Vaishali.
4. The Officer-in-Charge, Mahua, Police Station at Mahua, Hajipur, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha -GA1

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 28-06-2018

The present writ application has been preferred for issuance of a direction to the respondents to release the landed property of the petitioners' being Khata No. 2252, Jamabandi no. 103/2252, Khesra No. 1198, 1199 and 1200 measuring about 3.19 Decimal and another plot bearing Khesra No. 1199 measuring about 01.7 and ½ Decimal (total 4.27 Acres) which have been attached by respondent no. 3 on 30.06.2017 for the alleged violation of the provisions contained under Bihar Prohibition and Excise



(Amendment) Act, 2016 and confiscation proceeding being Excise Cr. Misc. No. 63 of 2017 has been initiated before the District Magistrate-cum- Confiscation Officer Hajipur, Vaishali (Respondent no. 2).

It is the case of the petitioners that the petitioners are the owners of the landed property. Property were purchased by the father, vide registered sale deed which the petitioners have succeeded after death of their father. It is stated that petitioner no. 3 had constructed a small building in his own share measuring about 1000 square feet on the land bearing plot no. 1199 for purpose of letting out. This portion was let out subsequently to one Ranjit Sah for a period of six months. A copy of tenancy agreement has been brought on record as Annexure-1 to the writ application. It is alleged that Mahua Police had raided their premises and seized Tata 407 vehicle which was being used in transporting of wine and arrested Ranjit Sah tenant of the said rented premises.

The grievance of petitioners is that the petitioners have been served with a notice by respondents no. 2 in the confiscation proceeding initiated on the requisition of Superintendent of Police, Hajipur. It is stated that Superintendent of Police, Vaishali has recommended for confiscation of the total land measuring 4.27 Acres without appreciating that the constructed area which was rented out to Ranjit Sah was hardly about one thousand square feet on plot no. 1199



only. It is submitted that on the basis of the requisition alone, the District Magistrate has called upon the petitioners to show-cause. It is submitted that the petitioners requested respondent no. 2 for dropping of the confiscation proceeding but the respondent no. 2 has not passed any order thereon. Learned counsel submits that the petitioners are being deprived of their legitimate right to cultivate the land and of rental income from the land and building in question.

Having heard learned counsel for the petitioner and learned counsel representing the State we dispose of this writ application at this stage with a direction to the District Magistrate, Vaishali (Respondent no. 2) to consider the objection raised on behalf of the petitioners as regards the initiation of the confiscation proceeding over the entire piece of land measuring area 4.27 Acres. The respondent no. 2 shall keep in mind that the illicit liquor is said to have been recovered from the constructed portion of the rented premises, the petitioners are brothers and widow of one of the deceased brothers who have succeeded the property from their common ancestor/father Ranjeet Prasad as claimed by the petitioners. The respondent no. 2 shall pass a reasoned order in the confiscation proceeding dealing with each and every aspects of the matter within a period of three months from the date of receipt/production of a copy of this order.



During pendency of the confiscation proceeding the vacant land and the tenanted premises/constructed portion shall be released in favour of the petitioners on their submitting title deed of the property in question as surety with respondent no. 2. The petitioners undertake not to deal with the property involved in the confiscation proceeding during pendency and they shall not create any third party right in respect of property adverse to the interest of the State. The petitioners shall be allowed to cultivate and use the vacant land and constructed portion for purpose of cultivation or letting out as the case may be and other lawful purposes. Respondent no. 2 shall unseal the constructed portion and hand over possession to the petitioner no.3 within one week of submission of ongoing title deed.

In case, the petitioners will be aggrieved by the order passed in the confiscation proceeding they would at liberty to challenge the same in accordance with law.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sanjeev/Mukesh

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.07.2018
qWTransmissio n Date	N/A

