

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24363 of 2018

Paras Prasad, S/o Jamun Sah @ Yamuna Prasad, R/o Ward No. 15, Mohalla-Koat Bazar, Paswan Tola, Chakmahila, P.S. + District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector/District Magistrate-Sitamarhi, District- Sitamarhi.
3. The Excise Deputy Commissioner, Sitamarhi.
4. The Senior Superintendent of Police, Sitamarhi.
5. The Superintendent of Excise, Sitamarhi.
6. The Police Inspector cum S.H.O. Sitamarhi Police Station, District-Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dinesh Jha, Advocate
For the Respondent/s	:	Mr.Vivek Prasad

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 26-04-2019

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

This application has been filed for a Mandamus directing the State-respondents to release/unseal the House of the petitioner sealed in connection with Sitamarhi P.S. Case No. 242 of 2017 registered under Sections 272, 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 375 ml. of IMFL.



Learned counsel for the petitioner submits that the house in question is a joint family property of the petitioner. The seizure list shows recovery of 375 ml. of IMFL from the house of the petitioner. It is also submitted that the confiscation proceeding for the property in question is pending.

Learned counsel for the State is present and submits that in the given facts and circumstances of this case if at all the Court is willing to consider provisional unsealing of the house then the interest of the State is required to be protected.

Having heard learned counsel for the parties and considering the facts and circumstance of the case where it is said to be a residential house under the seizure of more than one and a half years and the petitioner is ready to furnish adequate security to safeguard the interest of the State, following the consistent views of the Division Bench of this Court, we direct that pending finalization of confiscation proceeding the house of the petitioner be provisionally de-sealed and possession be handed over to the petitioner on the petitioner's depositing the original title deed of the property in question as security with one surety to the extent of value of the property as per the circle rate with the Collector/District



Magistrate, Sitamarhi.

The owner of the property shall give an undertaking that during the pendency of the confiscation proceeding, he will not deal with the property in question and shall not create any third party interest whatsoever.

On submission of the original title deed of the property in question together with the surety and the undertaking as mentioned above, the house in question shall be de-sealed and possession be handed over within a fortnight thereafter. The title deed deposited by the petitioner shall be kept in safe custody of the Confiscating Authority and shall be subject to outcome in the confiscation proceeding.

The writ petition is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Nasimul/mrl.

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03-05-2019
Transmission Date	N/A

