

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21724 of 2018

1. Pintu Singh
2. Shambhu Singh @ Shambhu Kumar Singh both sons of Gagandeo Singh,
resident of Village- Fanda, P.S. Karja, District- Muzaffarpur.
- Petitioners
- Versus
1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary-cum- Commission, Excise Department, Government
of Bihar, Patna.
3. The Collector-cum- District Magistrate, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Sub- Divisional Officer, West Muzaffarpur, District- Muzaffarpur.
6. The Circle Officer, Marwan, District- Muzaffarpur.
7. The Excise Superintendent, Muzaffarpur, District- Muzaffarpur.
8. S.H.O. of Karja Police Station, Muzaffarpur.
- Respondents
-

Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan, Adv.
For the Respondent/s : Mr. Kumar Manish, SC 5

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

Date : 22-04-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed for a mandamus directing
the State respondents to release/ unseal the petitioners' share of
residential house situated over Khata No. 590, Khesara No. 2685
in village Fand, P.S. Karja, Circle Marwan in the District of
Muzaffarpur sealed in connection with Karja P.S. Case No.



64/2017 registered under Sections 272 and 273 of the Indian Penal Code and 30(A)/35 of the Bihar Prohibition and Excise Act, 2016.

Apart from a prayer of unsealing the house of the petitioners have also prayed for quashing of the order dated 02.07.2018 passed by the Collector-cum-District Magistrate, Muzaffarpur in Confiscation Case No. 158/2017-18 by which a direction to confiscate the house has been passed by the District Magistrate being the Confiscating Authority.

Learned Counsel for the petitioners submit that for the present he would not be pressing the relief for quashing of the order dated 02.07.2018 passed by the Collector-cum-District Magistrate, Muzaffarpur in Confiscation Case No. 158/2017-18, he, however, submits that liberty may be granted to the petitioners to challenge the confiscation order in an appropriate jurisdiction by filing an appeal before the Commissioner within a period of 30 days from today.

In the circumstances noted where final orders have been passed in the confiscation proceedings, we grant liberty to the petitioners to challenge the order of confiscation before the appellate authority within a period of 30 days from today. In case such an appeal is preferred within the aforesaid period together with an application for condonation of delay, the appellate



authority shall consider the same keeping in mind that the petitioners were prosecuting their remedy before this Court and the appeal shall be heard on its own merits and disposed of expeditiously.

Considering the facts and circumstances of the case where it is said to be a residential house under the seizure for two years and the petitioners are 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 petitioners be provisionally de-sealed and possession be handed over to the petitioners on the petitioners' 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 District Magistrate, Muzaffarpur. On submission of the original title deed of the property in question with the surety, the house shall be de-sealed and possession be handed over within one week thereof. The title deed deposited by the petitioners shall be kept in safe custody of the Confiscating Authority.

The owner of the property shall undertake that during the pendency of the confiscation proceeding, they will not deal



with the property in question and shall not create any third party interest whatsoever.

If the petitioners fail to present an appeal within 30 days as given above, the order of provisional release shall stand withdrawn and the Confiscating Authority shall be at liberty to proceed in accordance with law.

The writ petition is allowed with the directions/observations above.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.04.2019
Transmission Date	NA

