

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.818 of 2019

In

Civil Writ Jurisdiction Case No.7218 of 2018

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1. Chandeshwar Rai, 63 years, male, son of Late Guddar Rai, Resident of Village- Pachgachhiya, P.S. Gaighat, District-Muzaffarpur
 2. Maheshwar Rai, 43 years, male, Son of Late Guddar Rai, Resident of Village-Pachgachhiya, P.S. Gaighat, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Excise Commissioner, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Police Inspector, Excise, Katra Anchal, Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advocate

For the Opposite Party/s : Ms. Aditi Hansaria, AC to GA-1

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 24-04-2019 Heard learned counsel for the parties.

Petitioners in this case are seeking modification of the order dated 17.05.2018 passed in C.W.J.C. No.7218 of 2018 by which while directing provisional release of the house in question and unsealing of the same, this Court had directed the petitioners to furnish original title deed of the property in question and two local sureties to the satisfaction of the District Magistrate-cum-Collector, Muzaffarpur and other undertakings. At this stage, learned counsel for the petitioners has brought to



the notice of this Court that the original title deed of the property in question is not available as the same were burnt on 13.09.2013 as a fire set out due to blast of LPG cylinder. Annexure-3 to the present application has been brought on record to demonstrate that an information in this regard was submitted with the concerned police station at Gaighat.

Counsel for the petitioners submits that in order to facilitate unsealing of the house in question, this Court may allow the petitioners to submit the certified copy of the title deed at this stage with two sureties and the undertakings which have been directed in the order dated 17.05.2018. The modification sought in respect of substitution of the original title deed with that of the certified copy of the title deed.

In view of the last order passed by us requiring the petitioners to state as to whether the petitioners had obtained any loan by deposit of title deed, the petitioners have filed a supplementary affidavit. In paragraph 2 of the supplementary affidavit, a statement has been made that no loan has been taken either by the deponent or by the petitioner no.1 against the original title deed in question.

In view of the explanation furnished to this Court, we find that in the facts of the case, a deviation is required to be



made at this stage to facilitate the unsealing of the house during the pendency of the confiscation proceedings.

We, accordingly, direct the petitioners to furnish the certified copy of the title deed with a declaration enclosing the document furnished as Annexure 2 to the present application that the original title deed has been burnt in the fire and that the original title deed has not been deposited to create any equitable mortgage. This declaration will be supported by an affidavit to be sworn by the petitioners and on furnishing the certified copy of such declaration along with two sureties and other undertakings, the order dated 17.05.2018 passed in C.W.J.C. No. 7218 of 2018 shall be given effect to.

This application stands disposed of.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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