

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5409 of 2019

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Ram Kumar Sharma aged about 63 years, Gender-Male, S/o Late Ram Janam
Mistri, resident of Village and P.S.- Bihiya, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Bihar, Patna.
2. The Collector cum District Magistrate, Bhojpur at Ara.
3. The Superintendent of Police, Bhojpur at Ara.
4. The S.H.O., Bihiya Police Station Bihiya, District- Bhojpur at Ara.
5. The Circle Officer, Bihiya, District- Bhojpur at Ara.
6. Ram Kumar Sharma, S/o Ram Janam Sharma, resident of Village and P.S.-
Bihiya, District- Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha
For the Respondent/s : Mr. Vivek Prasad (GP7)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 12-04-2019

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
Building/Prakash Hotel of the petitioner sealed in connection
with Bihiya P.S. Case No. 211 of 2018 registered under section
30(a) of the Bihar Prohibition and Excise Act.

Learned counsel for the petitioner submits that



the property in question has been recorded in the name of one Ram Bachan Mistri and the petitioner on which he has constructed three storied building/hotel. The said premises was let out by the petitioner for his livelihood. He further submits that petitioner is ready to furnish adequate security for the unsealing of his property in question. He also submits that for the alleged recovery of 3.60 liters of IMFL, the confiscation proceeding for the property in question is yet to be initiated.

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 hotel 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 hotel under the seizure of more than ten months 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 the designated Court below that pending finalization of confiscation proceeding, the hotel of the petitioner be provisionally unsealed and possession be handed over to him 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 designated Court below.

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 hotel in question shall be unsealed and possession be handed over within a fortnight thereafter. The title deed deposited by the petitioner shall be kept in safe custody of the designated Court below and shall be subject to outcome in the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.04.2019
Transmission Date	NA

