

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8436 of 2019

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Chhathiya Devi Widow of Late Rama Shankar Singh Resident of Village-
Jagdishpur, Police Station- Buxar (Muffasil), District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary Excise Government of Bihar, Patna.
3. The District Magistrate Buxar.
4. The Superintendent of Police Buxar.
5. The Excise Superintendent Buxar.
6. The Additional Sub- Inspector Excise, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan
For the Respondent/s : Mr. Kumar Manish (Sc5)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 05-08-2019

Counter affidavit is being filed today on behalf of
respondent nos. 3,5 and 6. Let it be kept on record.

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 unseal the petitioners' ancestral house
(residential) and the land adjacent to her house situated over
Mauza Jagdishpur, Thana No. 340, Khata No. 28, Khesra No. 771
in the village Jagdishpur in District of Buxar sealed in connection



with Case No. 177(O)/2017 registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Apart from the prayer of unsealing the residential house, the petitioner has also prayed for quashing of the order dated 20.06.2017 passed by the Collector-cum-District Magistrate, Buxar in Confiscation Case No. 117/2017 by which a direction to confiscate the house has been passed by the District Magistrate being the Confiscating Authority.

Learned Counsel for the petitioner submits that 4.5 litres of IMFL has been recovered from the house of the petitioner and 470.760 litres of IMFL has been recovered from the land, adjacent to her house. For the present he would not be pressing the relief for quashing of the order dated 20.06.2017 passed by the Collector-cum-District Magistrate, Buxar in Confiscation Case No. 117/2017, he, however, submits that liberty may be granted to the petitioner 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 order has been passed in the confiscation proceedings, we grant liberty to the petitioner 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 petitioner was prosecuting her 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 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 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, Buxar. 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 petitioner 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 petitioner 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)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.8.19
Transmission Date	NA

