

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7066 of 2019

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Nagendra Singh @ Rupam @ Rupan Singh (Male), aged about 59 years, Son of Late Tribhuvan Singh, Resident of Village-Fatahpur, Police Station-Dumra, 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 Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-cum-District Magistrate, Sheohar.
4. The Superintendent of Excise, Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

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

Date : 16-05-2019

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 land of the petitioner sealed in connection with Sheohar P.S. Case No. 109 of 2018 registered under Section 30(A) of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 19.485 liters of IMFL.

Apart from a prayer for unseal of the land in question,



the petitioner has also prayed for quashing of the order dated 21.01.2019 passed by the Collector-cum-District Magistrate, Sheohar (Respondent No. 3) in connection with Confiscation Case No. 199 of 2018, by which a direction to confiscate the land in question has been passed.

Learned counsel for the petitioner submits that for the present, he would not be pressing the order dated 21.01.2019 passed by the Collector-cum-District Magistrate, Sheohar (Respondent No. 3) in connection with Confiscation Case No. 199 of 2018, 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 discussed, this application is disposed of with liberty to the petitioner to challenge the order of confiscating before the appellate authority within a period of 30 days from today. In case, such an appeal is preferred within the aforesaid period, with an application for condonation of delay, the Appellate Authority shall consider the same keeping in mind that the petitioner was prosecuting his remedy before this Court and the appeal shall be heard on its own merit and disposed of expeditiously.



Learned counsel for the petitioner, at this stage, submits that because the appellate authority has no power to pass an interim order of unseal of the land, he would press this application for provisionally unsealing the land in question pending disposal of appeal.

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 land then the interest of the State is required to be protected.

Considering the facts and circumstances of the case where it is said to be a land under seizure for about one year and the petitioner is ready to furnishing adequate security to safeguard the interest of the State, following the consistent views of the Division Bench of this Court, we direct that pending filing and disposal of the appeal, the land of the petitioner in question be provisionally unsealed 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-cum-District Magistrate, Sheohar. On submission of the original title deed of the property in question with the surety as directed, the land 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 he will not deal with the property in question and shall not create any third party interest whatsoever in the meanwhile.

In case, the petitioner fails to take recourse to the appellate remedy within the period granted above, this order shall stand recalled and the confiscating authority shall be at liberty to proceed in accordance with law.

The application is allowed with the observations and directions set out hereinabove.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21-05-2019
Transmission Date	N/A

