

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10267 of 2019

=====

Anju Devi, aged about 44 years (Female), Wife of late Ghanshyam Sah,
Resident of Village- Chilmil Kurthiya Tikar, Police Station- Barahat, Distt.
Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Old Secretariat , Bihar, Patna.
2. The Principal Secretary, Excise Department, Govt. of Bihar, Patna.
3. The Commissioner, Banka.
4. The District Magistrate, Banka.
5. The Superintendent of Police, Banka.
6. The District Transport Officer, Banka.
7. The S.H.O. Barahat Police Station, Banka.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ashutosh Kumar
For the Respondent/s : Mr. Vivek Prasad (Gp7)

=====

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

Date : 05-08-2019

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 petitioner's house in
village Chilmil Kurthiyatkar under Barahat Police Station in
District Banka sealed in connection with Banka Barhat P.S. Case
No. 302/2017 registered under Section 30(a) of the Bihar
Prohibition and Excise Act, 2016.



Apart from a prayer of unsealing the house the petitioner has also prayed for setting aside of the order dated 18.05.2018 passed by the Collector-cum-District Magistrate, Banka in Misc. Case No. 05/2018-19 by which the said case has been dismissed by the District Magistrate being the Confiscating Authority.

Learned counsel for the petitioner submits that as per the allegation, 26 litres of country made liquor have been recovered from the house. It is submitted that the confiscation proceeding for the property is yet to be initiated.

Considering the facts and circumstances of the case where it is said to be a residential house under the seizure of more than two years; the confiscation proceeding is yet to be initiated 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 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 at Banka. 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 designated court below.

The owner of the property shall undertake that during the pendency of the confiscation proceeding, she will not deal with the property in question and shall not create any third party interest whatsoever.

The application is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Partha Sarthy, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.08.2019
Transmission Date	NA

