

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10131 of 2017

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1. Prem Late Sinha, wife of late Kamleshwar Prasad Sinha
 2. Shwet Kamal @ Ambrish Kumar Sinha, son of Late Kamleshwar Prasad Sinha.
 3. Neel Kamal, son of Late Kamleshwar Prasad Sinha.
 4. Anurag, son of Late Kamleshwar Prasad Sinha.
all resident of Sri Krishna Bhawan, Ward No-20, Laxshmi Narayan Road, Chhoti Saraiyaganj, P.S.- Town, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
4. The Commissioner, Excise Department, Government of Bihar, Patna.
5. The Excise Superintendent, Muzaffarpur.
6. The Collector cum District Magistrate, Muzaffarpur.
7. The Sub Divisional Officer, East Muzaffarpur, District- Muzaffarpur.
8. The Circle Officer Mushahari Muzaffarpur, District- Muzaffarpur.
9. The Muzaffarpur Municipal Corporation through Municipal Commissioner.
10. The Municipal Commissioner, Muzaffarpur Municipal Corporation, Muzaffarpur.
11. Amit Kumar @ Bunti Son of Sri Triloki Rai resident of Motijheel Muzaffarpur, Ayodhya Prasad Lane, Milk Vendor, Lakshmi Narayan Road, Chhoti Saraiyaganj, P.S. Town District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr. Anil Kr. Sinha- Ga1

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

Date : 08-04-2019

I.A. No.1 of 2019 has been filed for substitution of legal heirs of original petitioner, namely, Kamleshwar Prasad Sinha who died on 05.02. 2019 during the pendency of this writ application.



On the reasons stated in aforesaid interlocutory petition, the I.A. No.1 of 2019 is allowed. The legal heirs as mentioned in paragraph no.2 of the I.A. petition are substituted in place of the deceased petitioner.

Heard Mr. Anish Akhtar, learned counsel appearing on behalf of the petitioner, Mr. Hari Kishore Thakur, learned counsel for the private respondent and learned A.C. to G.A.1.

The petitioner is aggrieved by the confiscation order dated 31.01.2017 passed in Confiscation Case No.34 of 2016-17 by Collector-Cum-District Magistrate, Muzaffarpur whereby the property situated at Mauze-Saraiyaganj having Jamabandi No.1979, Khata No.38, Khesra No.437 New, 459 Old, area 01 katha 02 dhur 08 kanwa was confiscated inter alia on charge of recovery of 1.5 litres of illegal foreign liquor.

According to Mr. Akhtar, learned counsel appearing for the petitioner, it is the petitioner who is the rightful owner of the property which was given on lease to the private respondent who refused to vacate the same and for which an eviction suit is going on in between the parties bearing Eviction Suit No.52 of 1985.

Having considered the rival submissions, we are certainly not persuaded with the arguments of Mr. Akhtar to interfere with the confiscation order because neither the nature of



suit nor the pendency of the same for last 30 years or more can be a reason for interference with the order of confiscation which has been passed on recovery liquor within the premises in question, in gross violation of the provisions of the Bihar Prohibition and Excise Act, 2016.

Learned counsel appearing for the private respondent submitted that the respondent is undisputedly in possession of the premises and would move in appeal against the order of confiscation passed by the Collector-cum-District Magistrate, Muzaffarpur as provided in the act.

Having considered the nature of dispute raised, we are not persuaded to grant indulgence to the prayer made in the writ petition which is accordingly disposed of leaving it open for the contesting parties to resolve their dispute before the appropriate forum.

(Jyoti Saran, J)

(Arvind Srivastava, J)

sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19/04/2019
Transmission Date	NA

