

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11638 of 2019

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Arjun Gupta @ Arjun Prasad Gupta Son of Shankar Sah Resident of Village-
Dostiya North, P.S.- Purnahiya, District- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary Govt. of Bihar, Patna.
3. The Director General of Police Bihar, Patna.
4. The Collector- cum- District Magistrate Sheohar.
5. The Superintendent of Police Sheohar.
6. The Excise Superintendent Sheohar.
7. The Station Head Officer Purnahiya, District- Sheohar.

... .. Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 22-08-2019

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 unseal the petitioner's residential house
situated over Khesara Nos. 297, 298 and 299, total area 3.5
decimal in village- Dostiya North, P.S.- Purnahiya in the District of
Sheohar sealed in connection with Purnahiya P.S. Case No. 108 of



2018 registered under Sections 30(a)/38/47 of the Bihar Prohibition and Excise Act, 2016.

Apart from a prayer of unsealing the house of the petitioner, a prayer has also been made for quashing of the order dated 11.03.2019 passed by the Collector-cum-District Magistrate, Sheohar in Confiscation Case No. 218 of 2018 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 for the present he would not be pressing the relief for quashing of the order dated 11.03.2019 passed by the Collector-cum-District Magistrate, Sheohar in Confiscation Case No. 218 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 noted where final orders have 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 his remedy before this Court and the appeal shall be heard on its own merits 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 house, he would press this application for provisionally unsealing the house 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 house 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 residential house under seizure for more than ten months 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 house 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 District Magistrate, Sheohar. 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 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 hereunder, this order shall stand recalled and the respondent shall be at liberty to proceed in accordance with law.

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

(Shivaji Pandey, J)

(Partha Sarthy, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	28.08.2019
Transmission Date	N.A.

