

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4138 of 2018

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Harilal Yadav Son of late Dwarika Prasad Yadav R/o Vill- Rampur, Pagara
Ward No. 2, P.S. Dalsingsarai, Distt. Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna
2. The District Magistrate Cum Collector, Samastipur.
3. The Excise Superintendent, District- Samastipur.
4. The Station House Officer Cum- Officer-in- Charge- Vibhutipur, Police Station, district- Samastipur
5. Rajesh Kumar Jaipuriyar Son of late Prabhat Kr. Jaipuriyar Resident of Village- Sahrpur Pagada, P.S. Dalsingsarai, Distt. Samastipur.
6. Anil Kumar Issar Son of Mahendra Prasad Issar Resident of Village- Mahishi, P.S. Dalsingsarai, District. Samastipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bhola Prasad, Advocate
		Mr. Indrajeet Kumar, Advocate
For the Opposite Party/s :		Mr. Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 06-02-2019 Heard Mr. Bhola Prasad, learned counsel representing

the petitioner and Mr. Manish Kumar, learned AC to AAG6 on

behalf of the State.

In the nature of the order required to be passed in the
present application, no notice is required to be issued to the
private respondent.

The petitioner has moved this court seeking
modification of the order dated 18.05.2018 by which while



directing provisional release of the vehicle in question in favour of the petitioner, this Court had directed that the petitioner will furnish a bank guarantee to the satisfaction of the District Magistrate, Samastipur and undertakings.

Learned counsel for the petitioner now submits that in several cases which have been disposed of after passing of the order dated 18.05.2018 in C.W.J.C. No. 6098 of 2018, this Court has taken a view that the bank guarantee will be to the extent of the value of the vehicle as indicated in the insurance document. He is looking only that much modification in the order dated 18.05.2018.

We find from the records that earlier respondent no. 6 had moved this Court in Cr.W.J.C. No. 2767 of 2017 which was disposed of by a learned Single Judge of this Court (one of us Mr. Justice Rajeev Ranjan Prasad) vide order dated 30.01.2018. This Court had directed provisional release of the vehicle in question on the petitioner of the said case producing proof of ownership of the vehicle and registration in his favour.

Subsequently, this petitioner moved this Court in Civil Writ Jurisdiction for release of the same vehicle which was placed before the Hon'ble Division Bench of this Court. In the writ application the petitioner contended that because the



petitioner in Cr.W.J.C. No. 2767 of 2017 was not the registered owner of the vehicle, the District Magistrate, Samastipur has not released the vehicle in his favour. In fact, respondent no. 6 of the present writ application was the petitioner in Cr.W.J.C. No. 2767 of 2017. Respondent no. 6 also appeared and supported the contention of the petitioner in Civil Writ Jurisdiction application and it appears that on their joint submission the order dated 18.05.2018 was passed in C.W.J.C. No. 6098 of 2018.

We, therefore, find that the order dated 30.01.2018 passed by the learned Single Judge was a conditional order which was not complied with by the District Magistrate because Anil Kumar Issar who was the petitioner of the said case had not produced the document of ownership and registration of the vehicle. Thus, in the changed facts and circumstances of the case the Division Bench of this Court passed the order dated 18.05.2018 in C.W.J.C. No. 6098 of 2018.

To that extent there is no ambiguity that the Division Bench judgment of this Court shall prevail.

In the given facts and circumstances of the case, this Court is willing to modify the order dated 18.05.2018 to the extent that the petitioner is now required to furnish a bank



guarantee to the extent of the value of the vehicle as indicated in the insurance document. The condition of furnishing undertakings etc. shall remain intact.

This application is disposed off.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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