

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17927 of 2019

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Bachchi Devi, Female, aged 60 years w/o Pairu Chaudhary Village Aliganj
Post Aliganj P.S. Chandradeep Dist. Jamui

... .. Petitioner/s

Versus

1. The State of Bihar (through Principal Secretary, Excise Department, Govt. of Bihar, Patna).
2. The District Magistrate cum Collector, Jamui
3. The Excise Superintendent, District Jamui

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Anjani Prasad Singh
For the Respondent/s : AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

2 17-12-2019 Heard Dr. Anjani Prasad Singh, learned counsel for

the petitioner and learned A.C. to Government Pleader No. 7 for

the respondent – State.

The present writ application has been filed for setting
aside the order dated 03.05.2019 passed in Confiscation Case
No. 34 of 2016 by the District Magistrate -cum- Collector,
Jamui, whereby the house of the petitioner has been confiscated
in connection with Chandradeep P.S. Case No. 108 of 2016
registered for the offences punishable under Section 30(a) of the
Bihar Prohibition and Excise Act, 2016 as amended by the
Amendment Act 8 of 2018 [hereinafter referred to as ‘the Act’]



and the Superintendent Excise, Jamui has been directed to make auction sale of the house in question.

Considering the fact that the jurisdiction under Article 226 of the Constitution of India can exceptionally be exercised only when there is no alternative efficacious remedy available to the petitioner under the Statute and Section 92(2) under Chapter IX of the Act provides the forum of appeal against the final order passed by Collector before the Excise Commissioner within ninety days from the date of the order which is complained off, in that view of the matter, the petitioner prays for disposal of the writ application with liberty to the petitioner to file appeal and if the house has not been put to auction sale, then status quo as of today shall be maintained

Learned counsel for the State has no objection to the prayer made by the learned counsel for the petitioner.

In these circumstances, the petitioner is permitted to file appeal before the appellate authority within a period of four weeks from the date of the receipt of a copy of this order along with an application for condonation of delay and if the same is filed, the appellate authority is expected to consider the same and condone the delay in filing appeal in view of the fact that present writ application was pending before this court. It is also



expected that the appellate authority shall dispose of the appeal within a period of ten weeks from the date of filing of the appeal.

It is made clear that if the house in question has not been put to auction sale, then the status quo as of existing today shall be maintained till conclusion of the appeal.

With above observation and direction, the writ application is disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

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