

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18425 of 2019

Radhekant Ram Son of Late Bhagwandin Ram Resident of Mohalla-
Ambedkar Nagar Baswariya, Police Station- Bettiah Town, District- West
Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector cum District Magistrate, Bettiah, West Champaran.
3. The Superintendent of Police, Bettiah, West Champaran.
4. The Station House Officer, Bettiah Town Police Station, District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar No 7, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)

Date : 16-12-2019

Heard learned counsel appearing for the petitioner
as well as learned counsel for the State.

Petitioner has filed this writ petition against the
seizure of his house from which country made liquor and some
apparatus of making country made liquor were recovered for
which Bettiah (Town) P.S. Case No. 475 of 2019 under Section
30(a) of Bihar Prohibition and Excise Act, 2016 was lodged
against petitioner and others.



The contention on behalf of petitioner is that petitioner is a poor person and he does not have any other house. He further submits that due to seizure of house of the petitioner, petitioner is suffering from great difficulty and, moreover, the seized house is a joint house and nothing had been recovered from the said house.

On the other hand, learned counsel appearing for State submits that section 62 of Bihar Prohibition and Excise Act, 2016 says that if any liquor or intoxicant is found from a premises, the police officials or excise officials have power to seize the aforesaid premises. He submits that in the present case, country made liquor and other apparatus were recovered from the house of the petitioner and, therefore, this court should not interfere into seizure of house of the petitioner.

Having heard the contentions of the parties, we went through the record along with relevant provisions of Bihar Prohibition and Excise Act, 2016. The perusal of section 62 of Bihar Prohibition and Excise Act, 2016 goes to show that aforesaid section gives power to excise officials or police officials to seize a premise, if liquor or intoxicant is found in the aforesaid house and the aforesaid section also gives power to the persons who seizes the premises to make proposal for



confiscation of the said premises and on the proposal the Collector may initiate confiscation proceeding. In the present case, according to prosecution, the illicit liquor and apparatus for making illicit liquor were recovered from the house of the petitioner, but there is nothing on the record to show about the initiation of confiscation proceeding and it has been pleaded by the petitioner that the confiscation proceeding has not been initiated as yet.

In view of the aforesaid facts and circumstances as well as submissions of the parties, this writ petition stands disposed of with direction to the learned Additional Session Judge-cum-Special Judge Excise, Bettiah, West Champaran to obtain a report from District Collector, Bettiah to this effect as to whether confiscation proceeding in respect of seized house of the petitioner in connection with Bettiah (Town) P.S. Case No. 475 of 2019 has been initiated as yet or not, and, if the concerned court finds from the report of District Collector, Bettiah that the confiscation proceeding has not been initiated as yet, in that event, the concerned court shall release the aforesaid house in favour of the petitioner, subject to condition that the petitioner shall not alienate or transfer the aforesaid house without prior permission of the court till final disposal of



Bettiah (Town) P.S. Case No. 475 of 2019.

It is needless to say that if the court finds that the confiscation proceeding has been initiated, the court shall not pass any order in respect of the release of house of the petitioner in his favour. However, it is made clear that this order shall not cause any prejudice to the mind of District Collector, Bettiah at the time of passing any order in confiscation proceeding, if the same is initiated in respect of the seized house.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2019
Transmission Date	

