

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23269 of 2018

Vijay Shankar Dubey, S/o Ram Dhayan Dubey, R/o Village Majhiyaw, P.S Karamchak, Dist Kaimur at Bhabhua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest, Bihar, Patna.
2. The Divisional Forest Officer, Kaimur at Bhabhua.
3. The Forest Range Officer, Chenari, Kaimur at Bhabhua.
4. The Divisional Manager, Bihar Forest Development Ltd. Patna Division, Patna.
5. The Forest Guard, Mundeshari, Forest Division Kaimur at Bhabhua.
6. The Forest Guard Nauhatta, Forest Division Kaimur at Bhabhua.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bindhayachal Singh, Advocate. Mr. Neel Nikhar, Advocate. Mr. Ehsas Manikant, Advocate.
For the Respondent/s	:	Mr. Ashok Kumar Pathak, Advocate.

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 13-02-2019

1. Heard Mr. Bindhayachal Singh, learned counsel for the petitioner and Mr. Ashok Kumar Pathak, learned counsel for the State.

2. In the instant writ petition the petitioner has made prayer to pass order to release the Tractor and Trailer as mentioned in paragraph-4 of the writ petition which has been seized in Forest Case No. 47 of 2018 (Criminal Report No. 30P(BH)/18 dated 9.8.2018.

3. Counsel for the petitioner submits that Section 52(C) of Indian Forest Act bars the jurisdiction of Courts and Tribunals other than the “Authorised Officer” and “Appellate



Authority” and “Revisional Authority” under the Act, to pass an order for possession or release of any property, which is the subject matter of confiscation proceeding.

4. As per prosecution story, on 8.8.2018, the Forester during patrolling duty saw a tractor and trailer loaded with Kendu leaves. The Forester searched the tractor and told to show the paper but driver could not show any paper with regard to the vehicles in question in which Kendu leaves were loaded. He replied that the tractor and Kendu leaves belonged to this petitioner. The Forester seized the tractor with Kendu leaves and prepared seizure list. He arrested the driver who was transporting illegal Kendu leaves without paper which is a forest produce.

5. Counsel for the petitioner submits that at this stage he is not making any claim with respect to seizure of Kendu leaves. He is only making prayer to release the tractor/trailer which has been seized by the Forest Officer and the same is lying in open space. He is holding valid paper of ownership with regard to the aforesaid vehicle. He further submits that he is ready to produce the vehicle as and when required by the court below or the Forest Officer during confiscation proceeding.

6. Counter affidavit has been filed on behalf of the State wherein it is mentioned that confiscation proceeding has



already been initiated and the vehicles have been kept in safe place. The petitioner appeared in Confiscation Case No. 19 of 2018 which is related to the seized vehicle with Kendu leaves.

7. This Court finds that seized vehicle is liable for damage. The confiscation proceeding is still pending. Therefore, the Divisional Forest Officer is directed to release the tractor and trailer bearing registration Nos. BR-24GA-9424 and BR24A-2892 of the petitioner after due verification of the relevant documents with regard to ownership of the aforesaid vehicles after taking appropriate surety. The petitioner shall furnish all the necessary papers/documents of ownership and security bonds (which will not include Bank Guarantee) as may be deemed fit and proper by the Divisional Forest Officer-cum-Authorized Officer. The petitioner shall undertake, in writing, that the vehicle, in question, shall neither be alienated nor be transferred in favour of any third party during pendency of the confiscation proceeding and that the vehicles, in question, shall be produced as and when called upon or required in the confiscation proceeding or otherwise.

8. The District Forest Officer is directed to pass final order in the confiscation proceeding as early as possible preferably within a period of two months from the date of receipt of this order with regard to seized Kendu leaves.



9. This writ petition is accordingly allowed with
direction made above.

(Sanjay Priya, J)

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