

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.213 of 2019

Arising Out of PS. Case No.- Year- Thana- District-

=====

Raja Kumar Das, son of Hare Krishna Das, Resident of Village/Mohalla-
Kali Bagh, Rajendra Nagar, Bettiah, P.S.- Town Bettiah, District- West
Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Conservator of Forest, Forest
Department., Govt. of Bihar, Patna
2. The Authorised Officer-cum-Forest Divisional Officer, Bettiah Forest
Division, Bettiah

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Mritunjay Kumar Sinha, Advocate

For the Respondent/s : Mr.Chitranjan Sinha , PAAG-2

Mr. Shailendra Kumar, AC to PAAG-2

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 31-01-2019

Heard learned counsel for the petitioner and
learned counsel for the State.

2. In the instant writ petition, the petitioner has
prayed for quashing the order dated 24.07.2017 passed by the
Authorised Officer-cum-Forest Division Officer, Bettiah Forest
Division, Bettiah in confiscation Case No. 01 of 2017 by which
one pickup van bearing Registration No. UP- 53AT/0980
registered in the name of the petitioner has been confiscated in



exercise of powers conferred under Section 52 of the Indian Forest Act (for short 'the Act').

3. Learned counsel for the petitioner submitted that the petitioner, being the owner, possesses all the documents of the said pickup van.

4. On 21.03.2017, the Forest Range Officer, Udaypur Range, Bettiah submitted a prosecution report in the court of Chief Judicial Magistrate, Bettiah, West Champaran alleging therein that a forest offence has been committed in respect of forest produce and the person driving the vehicle in question managed to escape on seeing the raiding party. The raiding party intercepted the vehicle in question and the persons, who were found in the vehicle, were apprehended and twelve bags of forest produce were seized. The contention is that subsequent to the seizure of the vehicle, a confiscation proceeding was initiated and vide impugned order dated 24.07.2017, the Authorized Officer-cum-Forest Division Officer, Bettiah Forest Division, Bettiah confiscated the vehicle in question.

5. Learned counsel for the petitioner contended that one Md. Aarif Khan had taken the pick-up van on hire. The petitioner was totally unaware in respect of the seized forest



seeds. The pickup van is lying on the vacant field and the same would become a junk if not released in favour of the petitioner. He further contended that the only source of income to the petitioner is pickup van. If it is not released in his favour, his entire family would starve for want of food.

6. Per contra, learned counsel appearing for the State submitted that impugned order does not suffer from any illegality. The petitioner was duly noticed in the confiscation proceeding. He not only appeared but also contested the proceeding through lawyer and after considering the explanations submitted by the petitioner and Md. Aarif, the court below, vide reasoned order directed for confiscation of the vehicle in question. He contended that the petitioner did not challenge the order impugned by filing statutory appeal within time. After lapse of more than a year, a writ petition has been filed before this Court, which is fit to be dismissed.

7. I have heard learned counsel for the parties and carefully perused the record.

8. Section 52 of the Indian Forest Act, 1927 provides that when there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, carts or cattle used



in committing any such offence, may be seized by any Forest Officer or Police Officer.

9. In the State of Bihar, after Section 52, 52A to 52D have been inserted, vide Bihar Act 9 of 1990, with effect from 10.09.1990.

10. Section 52A of the Act provides that any person aggrieved by an order of confiscation may, within thirty days of the order, or if the fact of such order has not been communicated to him within thirty days of date of knowledge of such order, prefer an appeal in writing , accompanied by such fee payable in such form as may be prescribed, along with the certified copy of order of confiscation to the District Magistrate of the District in which the forest produce has been seized.

11. From the pleading of the petitioner, it is apparent that the statutory appeal provided under the Act has not been filed by the petitioner and, against the impugned order, after lapse of more than a year, a writ petition under Article 226 of the Constitution of India has been filed before this Court.

12. In view of the equally efficacious statutory remedy being available to the petitioner against the order impugned and the same having not been availed of by the petitioner, I am not inclined to entertain this petition under extra



ordinary writ jurisdiction.

13. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2019
Transmission Date	06.02.2019

