

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4826 of 2018

In
Civil Writ Jurisdiction Case No.7615 of 2018

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Dilip Kumar, Son of Sri Mithlesh Sharma @ Mithilesh Singh, Presently
Chairman of Motha (Bhadashi) PACS, resident of Village and Post- Jalpura,
Police Station and District- Arwal.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The Excise Commissioner, Govt. of Bihar, Patna.
3. The District Magistrate-cum-Collector, Arwal.
4. The Superintendent of Police, Arwal.
5. The S.H.O., Arwal Police Station, District- Arwal.
6. The Sub Inspector of Police cum Investigating Officer, Arwal Police Station- Arwal.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.2, Advocate
For the Opposite Party/s : Mr.

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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)

8 06-11-2019 It has been pointed out by the office of this Court that the order dated 11.09.2019 passed in MJC No.4826 of 2018 had been wrongly typed in CWJC No.7615 of 2018. In fact, MJC No.4826 of 2018 arises out of CWJC No.7615 of 2018, therefore, it seems to be a mistake while transcribing the order dated 11.09.2019. We, therefore, direct that the rectification may be carried out in the records and the order dated 11.09.2019 passed in CWJC No.7615 of 2018 be treated as a part of the



records of MJC No.4826 of 2018 as order no.4. As a result thereof, the subsequent order numbers shall also get modified and the order no.4 presently recorded would be treated as order no.5 and order nos.5 and 6 would be treated as order nos. 6 and 7 respectively.

Learned counsel for the petitioner is permitted to make correction in paragraph 3 of the supplementary affidavit filed today wherein words 'landlord roperty' have been wrongly typed in stead of 'landed property'.

Earlier while disposing of CWJC No.7615 of 2018, this Court directed unsealing and handing over of the possession of the PDS shop to the petitioner on his furnishing original title deed of the property in question, two local sureties and bank guarantee to the satisfaction of the District Magistrate, Arwal and further undertaking.

This application has been preferred for modification of the said order contending that the petitioner does not have the original title deed of the property in question. Learned counsel for the petitioner has filed a supplementary affidavit today enclosing therewith a xerox copy of the original title deed of one property bearing Plot No.06 in Khata No.59 measuring area 1 Katha equal to 3.125 decimals situated in Mouza Motha, P.S.



& District Arwal, Thana No.27, Ward No.12 lying within the jurisdiction of Nagar Parishad- Arwal. Learned counsel submits that the petitioner has got right, title and interest in this property and it is an unencumbered property which he is ready and willing to provide as surety. The property has been valued at Rs.5,50,000/-. It is submitted that since the passing of the order dated 24.04.2018, the petitioner has not been able to get the possession of the PDS Shop because of his inability to furnish his original title deed of the said property and, therefore, the condition is required to be relaxed.

Learned counsel for the State is present and in the given facts and circumstances he submits that so long as the interest of the State is protected, he would not have any objection to the modification of the order.

We find from the order dated 24.04.2018 that it is the PDS shop from where the illicit liquor has been recovered and a confiscation proceeding with regard to that is presently pending. In ultimate analysis, even if the confiscation order is finally passed, it is the said premises which is liable to be confiscated. We further find that the petitioner is furnishing the original title deed of a property valued at Rs.5,50,000/- and that, in our opinion, protects the interest of the State.



Considering the hardship and the circumstances stated by the petitioner, we modify the order dated 24.04.2018 to the extent that now on the petitioner furnishing the original title deed of the property described hereinabove together with his undertaking as required in terms of the order dated 24.04.2018, the PDS shop in question shall be unsealed and possession shall be handed over to the petitioner subject to the final outcome of the confiscation proceedings. We are passing this order in the peculiar facts and circumstances of the case for the reasons stated hereinabove.

This application is, accordingly, disposed of.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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