

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16076 of 2018

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Bhim Prasad, Son of Late Ganga Prasad Saw @ Late Ganga Sw, resident of
Indira Nagar Main Road By-Pass, P.S.- Kankarbagh, Distirct- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The District Magistrate cum Collector, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Superintendent of Police, Patna.
6. The Officer in Charge, Kadamkuan Police Station, Kadamkuan, Patna.
7. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Samir Kumar, Adv.

For the Respondent/s : Mr. Anil Kr. Sinha- GA-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 28-01-2019

Heard Mr. Samir Kumar, learned counsel appearing for the
petitioner and Mr. Pawan Kumar, learned Assisting Counsel to
Government Advocate No.1 for the State.

The petitioner has filed this writ petition seeking the
following reliefs:

- (i) For issuance of writ in the nature of certiorari or any other
appropriate writ, order or direction, for setting aside the
order dated 08.03.2018 passed by the learned District
Magistrate, Patna in Confiscation Case No.640/2017-18
whereby the learned District Magistrate has been pleased



to direct the petitioner to furnish two surety of Rs.12,50,000/- (Rs. Twelve Lakhs Fifty Thousand only).

- (ii) For issuance of writ in the nature of mandamus directing the respondents to accept surety of Rs.12,50,000/- which has already been accepted by them as a final satisfaction for the release of concerned shop.
- (iii) To grant any other relief or relief(s), order or order(s) as your Lordships may deem fit and proper.

It is in obedience of the order passed by this Court on the release of the house seized for the alleged violation of the Bihar Prohibition of Excise Act, 2016 that an order is passed by the Collector cum District Magistrate, Patna on 08.03.2018 directing release of the shop in question subject to submission of a bond of Rs.12,50,000/- with two sureties of the like amount.

The petitioner is aggrieved by the condition as according to him, the shop is valued at Rs.12,50,000/- as accepted by the Collector cum District Magistrate and which bond has since been executed but for getting two sureties of the like amount the petitioner is finding it difficult.

We have considered the submissions of learned counsel appearing for the petitioner as opposed by the learned counsel for the State who in reference to the extract of the order passed by this Court in the previous round of litigation submitted that the discretion was left for the Collector cum District Magistrate to put the condition and



thus the order is in tune with the directions so present.

Having considered the submissions of learned counsel, we do not find any infirmity in the order requiring interference save and except to observe that since the discretion has been left at the Collector cum District Magistrate to impose condition and since according to the valuation given, the shop is valued at Rs.12,50,000/- in case the petitioner has already submitted a bond to that extent, the Collector cum District Magistrate, Patna may consider the prayer of the petitioner for modification in the surety so asked in the order impugned and dispose of the request within two weeks of such filing.

The writ petition is disposed of with the observation above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Anjula/Skpathak

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2019
Transmission Date	NA

