

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4714 of 2020

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Pinki Kumari Wife of Rajan Kumar Resident of Sarai Saiyyad Ali Road No. 1, Mohalla- Naya Tola, P.S.- Kazi Mohammadpur, District- Muzaffarpur- 842001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise, Govt. of Bihar, Patna.
2. The District Magistrate Muzaffarpur.
3. The Excise Superintendent District- Muzaffarpur.
4. The Excise Inspector P.S. Nagar Anchal, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kamala Kant Tiwary, Adv
For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 10-07-2020

The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.

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

Petitioner has prayed for the following relief:-

“(i) For a direction to the Respondent no. 2 for unsealing/unlocking of the Room/house of the petitioner under confiscation proceeding No. 87/2018-19 pending before the District



Magistrate, Muzaffarpur in connection with Excise Case No. 56 of 2018 dated 22.03.2018 under section 30(a) and 38 of the Excise Act 2016 as half part of the room/house belongs to the petitioner and she is neither the accused in the said excise case nor she is involved in the said case in any manner.

(ii) For quashing the Notice dated 05.12.2019 of District Magistrate, Muzaffarpur in confiscation Case No. 87/2018-19 in Excise Case No. 56/2018 (P.R. Case No. 67/2017-18) Nagar Anchal Muzaffarpur whereby and whereunder the District Magistrate, Muzaffarpur has given notice to the petitioner for appearance in said confiscation proceeding without verifying the report and without report of Circle Officer, Musharhi about the ownership of land.

(iii) For a direction to the Respondent No.2 to not to proceed in the matter during pendency of this writ before this Hon'ble Court.”

According to prosecution case informant receive information from Excise Superintendent that accused Ramu Kumar is indulged in sale of illicit liquor from his house and two vehicles containing illicit liquor are parked before is house and upon receiving said information raid was conducted in the house of accused Ramu Kumar where both accused as named



in FIR tried to flee away however accused Ramu Kumar was apprehended but main accused Deepak Kumar managed to escape and from the house of accused Ramu Kumar 9.840 liters of illicit foreign liquor was recovered and from two vehicles 13.500 liters of foreign liquor was recovered which belonged to accused Deepak Kumar and the house of Ramu Kumar was sealed and the two vehicles were seized and recommendation was made to the District Collector for initiation of confiscation proceeding upon which Confiscation Case No. 87/18-19 was initiated against Ramu Kumar and Deepak Kumar.

It is submitted on behalf of petitioner that she is joint owner of the house which has been sealed by the Excise Officer and neither she is an accused nor anything has been recovered from her possession. The seized house is jointly owned by petitioner and Anita Devi wife of Ramu Kumar and was jointly purchased by the registered sale deed dated 30.07.2017.

Petitioner filed an application before the District Magistrate-cum-Confiscating Officer for unsealing the room and releasing the property in favour of petitioner against which notices were issued by the District Collector, Muzaffarpur to all the parties and petitioner appeared and filed her reply on



14.01.2020 but no final order has been passed in the confiscating proceeding.

The writ petition is disposed of with direction to the District Collector, Muzaffarpur, Respondent No. 2 to pass a final order in Confiscation Case No. 87/2018-19 within 03 (three) months from the date of receipt/production of a copy of order passed by this court after hearing all the parties in accordance with law, failing which the room shall be unsealed and possession handed over to its rightful owner on his depositing original registered sale deed of the property and furnishing two sureties to the satisfaction of District Magistrate, Muzaffarpur, and further undertaking not to alienate or deal with the house in question or create a third party interest during the pendency of confiscation proceeding or prejudice the right of the State in any manner in confiscation proceeding.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

