

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11231 of 2019

1. Indradev Chaudhary, Son of Bhairo Chaudhary,
 2. Phulkumari Devi, Wife of Fhuto Chaudhary,
 3. Gita Devi Wife of Rajendra Chaudhary.
- All are Residents of Village- Aliganj Ambabagh, Pasi Tola, P.S.- Mozahidpur (Babarganj), District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Prohibition, Excise and Registration Department, Government of Bihar Vikash Bhawan, Bailey Road, Patna.
2. The Excise Commissioner, Government of Bihar, Patna.
3. The District Magistrate cum Collector, District- Bhagalpur.
4. The Superintendent of Police (SP), Bhagalpur.
5. The Excise Superintendent, District- Bhagalpur.
6. The Station House Officer (SHO), Police Station- Mozahidpur (Babarganj), District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC11)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 14-01-2020 Heard learned counsel for the petitioners and learned counsel for the respondents.

Petitioners have prayed for the following relief (s):-

“(A) For release of petitioners residential house which is confiscated by the order dated 14.12.2018 vide Misc. (Excise) Case No.69/2017-18 passed by learned District Magistrate-cum-Collector,



Bhagalpur in connection with Mozahidpur (Babarganj) P. S. Case No.38/2017 registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016. The aforesaid confiscated house of petitioners located in Mauza-Ambabagh Pasi Tola (Ward No.28) vide (1) Khata No.735, Khesra No.1329, Area- 0.0382 Hectare, (2) Khata No.735, Khesra No.1329, Area- 0.0138 Hectare and (3) Khata No.536, Khesra No.1321, Area-0.0145 Hectare respectively.

B. For direction upon the respondent authorities to allow the petitioners and his family members to remain and live in their respective residential house till the pendency of legal proceeding with respect to confiscation under the Bihar Prohibition and Excise Act, 2016, keeping in view of petitioners are very poor and belong BPL (below the poverty line) category and have no any other residential house as such presently they all compelled to live in open sky with his/her family members.

C. And for any other relief/reliefs for which the petitioner is found to be entitled under the provision of law involved in the present case.”

It is submitted that Misc. (Excise) Case No.69/2017-18 already stands concluded.

As such, in our considered view, no other and further order can be passed in the present petition, save and except which is being passed herein under, on mutually agreeable



terms:-

(1) The petitioners shall file an appeal on or before 14.02.2020.

(2) If the appeal is filed within the aforesaid period, the issue of limitation shall not be raised by the State.

(3) The parties undertake to join and fully cooperate in the said proceedings.

(4) It is expected of the authority concerned to decide the said appeal expeditiously and preferably within a period of three months.

(5) All issues left open.

The writ petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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