

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8947 of 2021

1. Kamal Kishore Rai Son of Late Moti Rai Resident of Mohallah- Sarimpur Bandh, Police Station- Buxar (Industrial), District- Buxar.
2. Asha Devi @ Asha Rai Wife of Kamal Kishore Rai Resident of Mohallah- Sarimpur Bandh, Police Station- Buxar (Industrial), District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Registration, Excise and Prohibition Department, Bihar, Patna.
2. The Excise Commissioner-cum-Appellate Authority, Registration, Excise and Prohibition Department, Bihar, Patna.
3. The District Magistrate, Buxar.

... .. Respondent/s

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s : Mr.Parijat Saurav, Adv
For the Respondent/s : Mr. Kumar Manish SC-5

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 13-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-



1) That the present writ application is being preferred on behalf of the petitioner above named invoking the writ jurisdiction of this Hon'ble court praying:

- I. For issuance of a writ in the nature of **Certiorari** or any other appropriate writ or order for quashing of order-in-appeal dated 01.02.2021 passed in Excise Appeal No. 38/2019 passed by the respondent no. 2, the Excise Commissioner, Registration, Excise and Prohibition Department, Bihar, Patna, whereby the appeal of the petitioner was dismissed, and for quashing of the order-in-original dated 14.12.2018 passed in Confiscation case no. 189/2016 passed by the District Magistrate, Buxar under Section 58 of the Bihar Excise and Prohibition Act, 2016 whereby it is ordered for confiscation of the first floor of the house of the petitioners under Section 56(c) and for sale by auction under Section 58(5) of the Act.
- II. For issuance of a writ in the nature of **Mandamus** or any other appropriate writ or order for directing the respondent to release and restore the possession of the confiscated house to the petitioner.
- III. Be pleased to direct the respondent authorities to provisionally release the confiscated 1st floor of the house to the petitioners and for restraining the respondents from putting the said property on auction for sale and creating third party right in the said property.
- IV. For issuance of any other appropriate writ, order or direction which Your Lordships may deem fit and proper in the facts and circumstances of the case including the cost of litigation.



Petitioner has approached this Court without availing the statutory remedy of revision against the impugned appellate order, as such, liberty is granted to petitioner to file revision against the appellate order before the Revisional Authority and if any such Revision is filed within 8 weeks, then Revisional Authority shall condone the delay in filing the revision petition and shall decide the revision petition preferably within 8 weeks from the date of its filing on its own merit.

During pendency of revision petition, confiscated property shall not be auction sold, if not already auction sold.

With aforesaid liberty, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

