

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14482 of 2021

=====

Shivraj Chaudhary @ Shivraj Chaudhari, Son of Prayag Chaudhari, Resident
of Village-Saidpur, P.S.-Khizersarai, District-Gaya. Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
 2. The Collector cum District Magistrate, Gaya.
 3. The Superintendent of Police, Gaya.
 4. The Superintendent of Excise, Gaya.
 5. The Officer in Charge, Khizersarai, P.S., District-Gaya.
 6. The Circle Officer, Khizersarai, District-Gaya.
- Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate
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)

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

Date : 24-08-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“1. That the present writ application is being directed for issuance of a writ in the nature of Certiorari or any appropriate writ / writs for quashing the impugned order dated 15.04.2021, Passed by the Respondent Collector cum District Magistrate, Gaya, in Confiscation Case No. 11 of 2021 arising out of Khizersarai P. S. Case No. 193 of 2020 registered U/Ss 30 (a), (c) (d) of Bihar Prohibition and Excise (Amendment) Act 2018 whereby and whereunder the respondent District Magistrate Gaya directed to confiscate the Shiv Bhog Flour Mill together with piece of land belonging to the Petitioner, which is let out on rent to the tenant namely Krishna Manjhi @ Krishna Kumar i.e. one of the accused person. However, the Respondent No. 2 further directed to the Respondent Superintendent, Excise, under Section 58 of the Act to ascertain Khata / Khesara and area of land consisting Shiv Bhoj Flour Mill from the Circle Officer, Khizersarai has also ascertain the minimum floor price thereof in consultation with Executive Engineer Building Division and District Sub Registrar, Gaya has also finally conduct auction of the said property and upon sale in favour of

highest bidder, the sale proceeds accrued be deposited through Challan in treasury. However if the Petitioner agrees to deposit the amount to highest bid, the said house together with land shall be entrusted back to him.”

Petitioner has approached this Court without exhausting the statutory remedy of appeal against the impugned order, as such, petitioner is granted liberty to avail the remedy of appeal against the confiscation order passed by the Confiscating Authority- cum- District Magistrate, before the Appellate Authority and if any such appeal is filed within 8 weeks then appellate authority shall condone the delay in filing the appeal and shall decide the appeal on its own merit preferably within 8 weeks from the date of its filing.

During pendency of appeal, the 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)

Rajiv/veena-

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