

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14788 of 2021

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Anuradha Devi Wife of Late Satyendra Chaudhary and daughter of Chhote Chaudhary, R/o Village-Barara, P.S.-Noor Sarai, District-Nalanda, Bihar-803118.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
3. The District Magistrate-cum-Collector, Nalanda at Biharsharief.
4. The Superintendent of Excise Prohibition, Nalanda at Biharsharief.
5. The Assistant Excise Commissioner, Nalanda at Biharsharief.
6. The Superintendent of Police, District-Nalanda at Biharsharief.
7. The Officer Incharge/S.H.O. Noorsarai Police Station, District-Nalanda at Biharsharief.

... .. Respondent/s

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(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.Ashutosh Singh, 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 : 13-09-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“(i) For issuance of an appropriate direction/s order/s, writ/s to the respondent authorities to open the seal

of the house of the petitioner situated over Khata No. 541, Khesra No. 3100, Khatiyani, Mauza-Badara Thana No. 73, Area 0.0^{1/2} decimal up to which the house constructed out of the total area 0.06 Acre, which has been acquired U/sec 58(2) of the Bihar Excise Prohibition Act by the concerned authority in connection with Noorsarai PS Case No. 60/2021 dated 15.02.2021, offence alleged U/Sec. 30(a) of the Bihar Excise Prohibition Act, 2018 and u/sec 272/273 of the IPC.

(ii) For to set aside the Confiscation order of house (Joint Property) of the petitioner, dated 04.06.2021 (Annexure-2) passed by the learned Court of Additional Collector cum Additional District Magistrate Nalanda in Confiscation (Excise) Case No. 134/2021 (State Vs. Kailu Chaudhary) (arising out of Noorsarai PS Case No. 60/2021, dated 15.02.2021 without issuing notice to the petitioner (writ petitioner).

(iii) For issuance of direction to restrain the authorities concerned for holding an auction Sale of the house of the petitioner in view of the order dated dated 04.06.2021 (Annexure-2) passed by the learned Court of Additional Collector cum Additional District Magistrate, Nalanda in Confiscation (Excise) Case No. 134/2021 (state Vs. Kailu Chaudhary) (arising out of Noorsarai PS Case No. 60/2021, dated 15.02.2021.

(iv) For direction to the respondent authorities to open the seal of the house or remaining part portion of the house, where the alleged six liters of country made liquor has not been recovered.”

It is submitted on behalf of petitioner that she is widow and one of the co-owner of the sealed premises which is a joint family property and nothing was recovered from her possession or from the floor of the house in which she resides and same has been sealed although no offence under the Excise Act is made out. It is further submitted that 6 litre of country made illicit

liquor has been recovered from the ground floor in which her Brother-in-Law (Kailu Chaudhary) resides and confiscation proceeding was initiated against him and final order of confiscation has been passed by the confiscating authority in Confiscation (Excise) Case No. 134 of 2021 on 06.04.2021. However, part of the house in which she (petitioner) is residing with her children has also been ordered to be sealed and confiscated.

In the facts and circumstances of the present case, petitioner is directed to file a modification petition before the **Confiscating Authority/District Collector, Nalanda**, for removing the part of property in the confiscation order where she resides with her children and confine the confiscated property to the extent of 1st Floor from where illicit country made liquor was recovered from the part of the house in which accused Kailu Chaudhary resided.

During pendency of modification petition, the Confiscating Authority/District Collector, Nalanda, is further directed to unseal part of the premises of house (1st Floor) in which petitioner resides with her children and hand over its possession to the petitioner on furnishing adequate surety to the satisfaction of Confiscating Authority, Nalanda.

This writ petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2021
Transmission Date	NA