

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1179 of 2021

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Rajendra Yadav @ Rajendra Bhagat, Son of Late Balgovind Yadav @ Late Balgovind Bhagat, Resident of Village-Mahualla, P.S. Rajgir, District Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition and Excise Department, Patna.
2. The District Magistrate-Cum-Collector, Nalanda
3. The Superintendent of Police, Nalanda
4. The Superintendent Excise, Nalanda
5. The S.H.O. Rajgir Police Station, District Nalanda.
6. The C.O. Rajgir, District Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate
For the Respondent/s : Mr. A.C. to A.G.

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

Date : 25-03-2021

Heard the parties.

Petitioner has prayed for following relief(s):-

“For issuance of a writ in the nature of certiorary or any appropriate writ/s for quashing the impugned order dated 31.01.2020 passed by respondent District Magistrate-cum-Collector in Confiscation (Excise Case No. 201 of 2019) arising out of Rajgir P.S. Case No. 35 of 2019 under Section 30(a) of the Bihar Prohibition and Excise Act 2016 (hereinafter referred to as the Act) whereby the respondent Collector/D.M. directed to confiscate the shop/house



together with piece of land belonging to the petitioner, which is let out on rent to the tenant namely Sunil Kumar @ Baba i.e. one of the accused persons. However respondent no. 2 further directed the respondent Superintendent, Excise under Section 58(5) of the Act to ascertain Khata/Khesra and area of the land consisting shop house from the C.O., Rajgir has also ascertain the minimum floor price thereof in consultation with Executive Engineer Building Division and District Sub-Registrar, Nalanda 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 of highest bid, the said house together with land shall be entrusted back to him.”

Petitioner has filed this writ petition for setting aside order dated 31.01.2020 passed by District Magistrate-cum-Confiscating Authority passed in Confiscation (Excise) Case No. 201 of 2019 by which the shop/house of the petitioner was directed to be confiscated which was let out to tenants on rent and huge quantity of illicit liquor was recovered from said shop/house.

Petitioner has approached this Court without exhausting the statutory remedy of appeal and revision against the order passed by the Confiscating authority, as such, writ petition is disposed of with liberty to petitioner to avail the



remedy of appeal/revision against order as impugned and, if any, such appeal is filed within four weeks, the appellate authority shall condone the delay in filing appeal and decide the appeal preferably within eight weeks from the date of its filing.

During pendency of appeal/revision, the confiscated property shall not be auction sold, if not already auction sold.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2021
Transmission Date	NA

