

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17899 of 2021

1. Manoj Kumar, Gender, Male, aged about 30 years
2. Prakash Kumar @ Sandeep Kumar, Gender, male, aged about 28 years,
Both Son of Vijay Saw @ Vijay Prasad, Both Resident of Kalali Chowk,
P.S.-Rajgir, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar.
2. The Additional Chief Secretary-Cum-Principle Secretary, Registration and
Excise Department, Bihar.
3. The Collector-Cum-District Magistrate, Nalanda.
4. The Superintendent of Police, Nalanda.
5. The Additional Collector-Cum-Additional District Magistrate, Nalanda.
6. The Excise Superintendent, Nalanda.
7. The Executive Engineer, Building Division, Biharsharif, Nalanda.
8. The Sub-Divisional Officer, Nalanda.
9. The District-Sub Registrar, Nalanda.
10. The Circle Officer, Rajgir, Nalanda.
11. The Station House Officer, Rajgir Police Station, Nalanda.
12. The Investigating Officer namely Dukhit Ram, Sub-Inspector of
Rajgir, Police Station.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shambhu Narayan Singh, Advocate
For the Respondent/s : Mr. Kumar Manish (Sc5)

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 : 10-12-2021

Heard learned counsel for the parties.

Petitioners have prayed for following reliefs:-

“(I) For issuance of an appropriate writ in nature of mandamus for quashing of order dated 04.03.2021 passed in confiscation case No.80/2020 and consequential order dated 28.06.2021 passed in Excise Appeal Case No.268/2021 and order dated 06.09.2021 passed in Excise Revision Case No.112/2021.

(ii) For issuance of an appropriate writ/order/direction commanding the respondent authorities to release the confiscated house of petitioners bearing Thana No.485, Khata No.13, Khesra No.5247 measuring 02 decimal.

(iii) For issuance of appropriate writ/order / direction to the respondents authorities that during the pendency of instant application the process of auction sold of said premises of the petitioners be stayed.

(iv) For grant of any other relief or reliefs to which the petitioner be found entitled in the law be granted to them.”

After some argument, learned counsel for the petitioners seeks permission to withdraw this writ petition with liberty to approach the confiscating authority as joint house of petitioners and other family members was sealed and subsequently confiscated although the land and house is in the name of their father who is not accused in this case and it is a

joint family property and no confiscation proceeding was initiated against owner of the sealed premises in terms of Rule 12(B). Even as per Rules, only that part of the house could have been sealed and confiscated from where illicit liquor was recovered in terms of amended Rules 12 and 13.

Petitioners would be at liberty to file an application for stay of auction order before the confiscating authority, who shall pass an appropriate order on said petition.

With aforesaid observation and liberty, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2021
Transmission Date	NA