

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18254 of 2021

1. Shaila Devi Wife of Late Kapildeo Prasad
2. Dinesh Kumar @ Dinesh Prasad Son of Late Kapildeo Prasad
3. Sudhir Kumar Son of Late Kapildeo Prasad
All Residents of Village- Sasour, P.S.- Sarmera, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate Nalanda.
3. Additional Collector - cum- Additional District Magistrate Nalanda.
4. Excise Commissioner Excise Department, Government of Bihar, Patna.
5. Excise Superintendent Excise Department, Nalanda (Biharsharif).
6. Superintendent of Police Nalanda at Biharsharif.
7. Deputy Superintendent of Excise Biharsharif (Nalanda).
8. Sub. Inspector of Police, Sarmera P.S. District- Nalanda.
9. Executive Engineer Building Construction, Biharsharif (Nalanda).
10. District Sub. Registrar Nalanda at Biharsharif.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Braj Kishore Prasad Sinha
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)

Date : 23-12-2021

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s).

“ i) For quashing the order dated 24.04.2021 (but the order has been signed on 24.03.2021) passe respondent no.3, contained in Annexure: 2 initiating proceeding for confiscation of the house of the petitioners without giving notice to the

petitioners under section 56 of Bihar Prohibition and Excise Act, 2016 as well as the order dated 04.08.2021 confiscating the house of the petitioner without giving notice to the petitioner no. 1 & 2 situated in Village: Sasour bearing P.S. No. 94, Khata No. 68, Plot No. 1468, standing on the area 1.49 decimal under section 58(2) of the Bihar Prohibition and Excise Act 2016 and further directed to Excise Superintendent, Nalanda to auction the house of the petitioners vide Confiscation (Excise) Case No. 135/2021.

ii) For issuance of an appropriate writ/writs, order/orders, direction/directions to respondents to unseal the house of the petitioners and possession be handed over to petitioners immediately situated in Village: Sasour, P.S: Sarmera, District: Nalanda.

Iii) For all consequential reliefs to which the petitioners are found entitled in course of hearing of this writ application.”

Petitioners have approached this Court without exhausting the statutory remedy of appeal against the impugned order, as such, petitioners are 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 4 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