

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10685 of 2022

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Rekha Devi Wife of Late Rajeev Chaudhary, Resident of Village- Mirzapur,
In front of Block Office, Police Station- Sultanganj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Excise Registration, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Bhagalpur.
3. The Assistant Superintendent of Police-cum-Traniee S.H.O., Sultanganj Police Station, District- Bhagalpur.

... .. 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.Arun Kumar, Adv
For the Respondent/s	:	Mr.Kumar Manish (SC5)

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

Date : 29-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- (i) A writ in the nature of certiorari setting aside the impugned order dated 23.12.2021 passed in Misc. (Excise) Case No. 134 of 2017-18 by Respondent Collector, Bhagalpur as contained in Annexure-2 whereby and where under for allegation of only 7 litres country made wine from back side of dwelling hut of petitioner in which family of all the four brothers of deceased husband of petitioner bearing Khata No. 368, Khesra No. 930 and 931, Area about 0.0140 hectare in which 1/4 share will be of deceased husband of petitioner has been confiscated and ordered to be got possession by Government official so that land may be utilised is against the factual aspect of manner of recovery as no recovery

has been made from inside the house rather recovery is from back side of house.

(ii) For direction upon the concerned Respondent to release the dwelling house of the petitioner provisionally as petitioner and entire family are living under open sky nearby the confiscated house.

(iii) Any other order/orders for granting any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of this case.

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 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 vehicle/property shall not be auction sold.

Petitioner is also at liberty to get his/her property released on payment of penalty in terms of Rule 12(B) inserted by amending Bihar Prohibition and Excise Rules, 2021.

With said observation and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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