

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10839 of 2022

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Koushalya Devi @ Mina Devi W/o Late Arjun Chaudhary R/o Vill.- Rajnitik
Nagar Kamal Bigha, P.S.- Rajgir, Dist.- Nalanda. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The District Magistrate-Cum- Collector, Nalanda at Biharsharif.
4. The Sub Divisional Magistrate, Rajgir, Nalanda.
5. The Superintendent of Police, Nalanda at Biharsharif.
6. The S.H.O. Rajgir Police Station, Dist.- Nalanda at Biharsharif.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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 : 05-08-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

- (i) That this writ application filed by the petitioner for issuance of an appropriate direction/s, order/s, writ/s, to respondents authorities to release and unseal the joint residential house of the petitioner and restore the possession of the same in favour of petitioner which has been sealed in connection with Rajgir P.S. Case No.262/2021 on 28.07.2021 U/S 3D (a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

{ii} Further the issuance of other appropriate writ/s, direction/s, order/s as may be deem fit and proper.

Allegation is of recovery of 4 litre of illicit liquor from possession of the petitioner and whole premises has been sealed.

It is submitted by learned counsel for the petitioner that petitioner is a widow and nothing has been recovered from her house. It is further submitted that the house in question is a joint residential property and after death of the husband of the petitioner, petitioner and her three sons have been residing separately in the said house but her entire house and main entrance gate has been sealed by the authorities forcing them to live under open sky even during rainy season.

In the facts and circumstances of the present case, the Confiscating Authority/District Collector, Darbhanga is directed to unseal the sealed house of the petitioner except the room from where illicit liquor was recovered on furnishing adequate sureties to the satisfaction of District Collector/Confiscating Authority.

Petitioner shall also file an undertaking that during pendency of confiscating proceeding, no third party right or interest will be created on the property liable for confiscation.

In view of amendment in the Excise Act, and same being applicable in pending case, it shall be open for the petitioner to get his/her house/property released after making payment of penalty in terms of Rule 12(B) and 57(B) of Bihar Prohibition and Excise Rules, 2021.

With aforesaid observation and direction, the writ petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2022
Transmission Date	NA