

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13548 of 2022

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Rubi Devi, Wife of Shankar Chaudhary, Resident of Village-Ramharipind,
P.S.-Rajgir, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary Registration Excise and Prohibition Department Government of Bihar, Patna.
2. The District magistrate-Cum-Confiscation-Authority Nalanda.
3. The Superintendent of Police, Nalanda.
4. The Superintendent of Excise Department, Nalanda.
5. The S.H.O. Rajgir Police Station, Distt.-Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Upendra Kumar, Advocate
For the Respondent/s : Mr. Kumar Manish (SC 5)

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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 : 16-09-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) To Issue writ/writs order/orders,
direction/directions including a writ in the
nature of certiorari for quashing the order
dated 20.7.22 passed in Excise Confiscation

Case No. 79/22 by the Respondent No. 2 where by and where under he refuse to release to seized house in Memo No- 1100 dated 04.06.2022 in Khata No. 571, Khesra No. 5769, Area- 165 Square fit Gair Mazarua Thikedar Khata belongs to the petitioner.

(II) To Issue a writ/writs order/orders direction/directions including a writ in the nature of Mandamus directing the respondents to release the seized house.

(III) For granting any other relief or reliefs for which the petitioner may be found entitle in the facts and circumstances of the case.

(IV) For granting any other relief or reliefs for which the petitioner may be found

Petitioner has filed this writ petition for setting aside the order dated 20.07.2022 passed by the Confiscating Authority in Excise Confiscation Case No. 79/22 by which the learned Confiscating Authority has refused to release the sealed house of petitioner on the ground that house is constructed over the government land and has further directed the Circle Officer, Rajgir to take possession of the land by removing the

encroachment made over said land.

The Confiscating Authority has exceeded its jurisdiction while discharging his function as Confiscating Authority under the Excise Act. No direction for removal of encroachment can be passed under Excise Act, as such, order dated 20.07.2022 passed in Excise Confiscation Case No. 79/22 is set aside and matter is remanded to the Confiscating Authority, Nalanda to pass a fresh order within the provisions of Excise Act.

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	27.09.2022
Transmission Date	NA