

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3376 of 2022

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Muralee Manohar Keshari, Son of Bhagwan Shah, Resident of Village- Mangraon, P.S.- Rajpur, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Bihar Excise Department, Patna.
2. The Excise Commissioner, Bihar Excise Department at Patna.
3. The Collector, of District Buxar at Buxar.
4. The Superintendent of Police, Buxar at Buxar.
5. The Sub-Divisional Magistrate, Buxar Sadar at Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Arun Kumar Gupta, Advocate
For the Respondents : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 11-05-2023

1. A Bolero pickup van bearing Registration No. BR03GA-7998 was seized in connection with Rajpur P.S. Case No. 283 of 2020 on 20.11.2020 for offences under the Bihar Prohibition and Excise Act. There is alleged recovery of illicit liquor of about 23.84 litres. The petitioner's brother is owner of the said vehicle, which was confiscated in Confiscation Case No. 27 of 2021. It is stated by the petitioner that the vehicle was also auction sold.

2. The Authorities did not stop at this and later on a



case was initiated in the court of Sub-Divisional Magistrate, Buxar Sadar, bearing Case No. 32 of 2022 for confiscation of the petitioner's house and lands appurtenant thereto. The petitioner was served with notice. He appeared and filed his reply stating that the confiscation proceedings were initiated after 6 months from confiscation of the vehicle. The petitioner's house or lands were never sealed since lodging of the FIR on 20.11.2020. There was no recovery alleged from the petitioner's lands or his house.

3. Ignoring the plea raised by the petitioner, the petitioner's house and lands appurtenant thereto in Thana No. 124 bearing Khata No. 146, Khesra No. 1313, measuring 0.03 decimals of lands were confiscated by an order dated 03.03.2022 passed by the Sub-Divisional Magistrate, Buxar Sadar.

4. Neither the FIR nor seizure memo alleges recovery of any illicit liquor from the petitioner's lands or house. The recovery has been made from the vehicle, which has already been seized, confiscated by the authorities and auction sold. Initiation of confiscation proceedings against petitioner's house and lands appurtenant thereto, 6 months thereafter is not in accordance with any provisions contained in the Bihar



Prohibition and Excise Act. Neither there is any factual basis as per allegations made in the FIR. Also, the land was never seized in connection with the said police case. The proceeding for confiscation of the petitioner’s land, therefore, does not have any legal sanction and is perverse, to say the least.

5. The impugned order of the Sub-Divisional Magistrate dated 03.03.2022 is, therefore, unsustainable on facts as also being without following any procedure known to law. The Bihar Prohibition and Excise Act also does not authorize such confiscation of house/lands without there being any recovery of illicit liquor from the premises and when admittedly the same was never sealed ever since lodging of the FIR.

6. The order dated 03.03.2022 passed by the Sub-Divisional Magistrate is, therefore, unsustainable and hereby quashed.

7. Writ application is allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2023
Transmission Date	NA

