

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11346 of 2023

Udai Kant Singh @ Uday Kant Singh, Son of Bindeswar Singh, Resident of Rajendra Nagar, Police Station and district- Nawada, Bihar, At present resident of C/o Kanti Devi, 4C, Gopi Bose Lane, Bow Bazar, Near Yoga Yog Bhawan, Kolkata (West Bengal).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Registration, Government of Bihar, Patna.
2. The Superintendent of Police, Nawada.
3. The Excise Inspector-cum-S.H.O, Excise Police Station, Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mohammad Akhter Hussain, Advocate
For the Respondent/s	:	Mr.Vivek Prasad, GP-7
		Ms. Supragya, AC to GP-7
		Ms. Roona, AC to GP-7
		Mr. Sanjay Kumar, AC to GP-7
		Ms. Manisha Singh, AC to GP-7

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-10-2023

In the instant petition, the petitioner has prayed “for issuance of appropriate writ/writs for setting aside the seal Notice dated 12.05.2023 passed by one Pushpa Kumari, excise Inspector-cum-S.H.O., Excise Thana Nawada, wrongly and illegally fixed notice on the door and thereby sealed two rooms of the petitioner’s Flats, without knowledge of the petitioner who used to reside outside the State of Bihar and further commanding the respondents for release the said two rooms of



the petitioner's Flats in favour of the petitioner''.

2. The petitioner has approached this Court without exhausting the remedy before the confiscating authority.

3. From perusal of the record, it is evident that the petitioner is owner of the subject matter of premises, namely, Uday Singh's house, Rajendra Nagar, P.S.-Nawada, District-Nawada. It is also evident that the petitioner has rented out two rooms of his aforementioned premises in favour of Rakesh Kumar and Akhilesh Yadav @ Akhil Yadav. To that effect, learned counsel for the petitioner has furnished rental agreements dated 14.03.2022 and 04.10.2022. That apart, the accused-tenants have admitted that they are tenants to the petitioner (owner of the premises).

4. In identical matter, in the case of ***Sunita Sinha vs. The State of Bihar and Ors. (CWJC No.17894 of 2022)***, we have decided that owner cannot be liable in respect of any alleged offence committed by the tenants, in absence of any material evidence against the owner of the subject matter of premises.

5. In the present case, the respondents have not pointed out any role of the petitioner in the subject case, i.e., owner of the subject matter of premises. However, in terms of



Section 58 of the Bihar Prohibition and Excise Act, 2016 read with Rule 12 (B) of Bihar Prohibition and Excise Rules, 2021, the confiscating authority was required to undertake the exercise of confiscation proceeding within the time limit stipulated therein and it has already lapsed. In fact, time limit stipulated in the statutory provision is in mandatory nature. However, if the confiscation proceeding is already commenced, in that event, the confiscating authority is hereby directed to take note of rental agreements produced by the petitioner and further decision of this Court in the case of *Sunita Sinha vs. The State of Bihar and Ors. (CWJC No.17894 of 2022)* decided on 14.09.2023 and proceed to pass a detailed speaking order in the confiscation proceeding within a period of 30 days from today.

6. With the aforesaid observations and directions, this writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2023
Transmission Date	NA

