

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14289 of 2023

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Sumitra Devi W/O Munilal Sah Resident of Village- Aua, NH-2, Budh
Bhagwan, East of Wart Thai, P.S.- Shiv Sagar, Dist.- Rohtas (Sasaram)

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Commissioner Excise, Government of Bihar, Patna.
3. The Collector cum District Magistrate, Rohtas (Sasaram).
4. The Superintendent of Police, Rohtas (Sasaram).
5. The Sub Divisional Officer, Sadar, Dist.- Rohtas (Sasaram)
6. The Assistant Commissioner, Dist.- Rohtas (Sasaram)
7. The Circle Officer, Shiv Sagar, Dist. -Rohtas (Sasaram)
8. The Officer In-charge, Shiv Sagar Police Station, Dist. -Rohtas (Sasaram).
9. The Investigating Officer of Shiv Sagar P.S. Case 547/2022, P.S. Shiv Sagar,
Dist.-Rohtas (Sasaram).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Advocate
For the Respondent/s : Ms. Shama Sinha (AC to SC- 5)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 17-10-2023 Heard learned counsels for the respective parties.

2. In the instant petition, petitioner has prayed for the
following reliefs:-

*“(a) A writ in the nature of certiorari
or any other appropriate writ for quashing the
order dated 11.07.2023 passed in confiscation
case no. 134/2023 by respondent no. 3 whereby
and where under he has directed the respondent*



no. 6 & 7 to take the possession of the house of the petitioner in favour the state of Bihar situated at village- Aua, Thana No. 87, Khata No. 48 plot no. 96 admeasuring 3 Decimal falling under Shiv Sagar police station of the Rohtas district as the petitioner has shown her inability to deposit Rs. 5,00,000/-(Five Lakhs) as penalty in the present confiscation proceeding.

(b) A writ in the nature of Mandamus or any other appropriate writ, order/s direction/s, commanding the respondents for the followings.

(i) To hold that the entire confiscation proceeding is bad in the eye of law and incomplete disregard of Rule 12B(2) of the Bihar Prohibition and Excise Rules 2022.

(ii) To hold that the entire house of the petitioner can't be confiscated as 45 liters "Deshi Mahua" liquor as alleged would had recovered either from a room or from particular place.

(iii) To hold that the house in question belongs to petitioner and the same can't be confiscated the only because the husband of the petitioner alleged to have indulge in illegal trade of liquor.

(iv) To hold that awarding 5,00,000/- penalty of the house constructed in the areas of 3 decimal land is disproportionate and assessment is irrational and excessive in nature.

(v) To hold that the wife can't be



penalized for the offence committed by her husband though they are residing in the same house.”

3. Perusal of the pleadings, it is evident that the petitioner has not exhausted the statutory remedy of appeal under Section 92 of Bihar Prohibition and Excise Act 2016 (for short ‘Act, 2016’). Therefore, the present writ petition is not maintainable.

4. Accordingly, the present writ petition stands disposed of. The petitioner is at liberty to prefer appeal before the appellate authority within a period of four weeks from today. If such appeal is filed before the appellate authority, appellate authority is hereby directed to consider the petitioner’s appeal and decide within a reasonable period of time, in accordance with law.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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