

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15300 of 2023

Samundri Devi, Female, aged about 84 years, Wife of Late Girja Prasad,
Resident of Village - Hero Tola, Thanu Bigha, Police Station - Meskaur,
District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of Excise Department, Bihar at Patna.
2. The Collector-cum-District Magistrate, Nawada.
3. The Superintendent of Police, Nawada.
4. The Superintendent Excise Prohibition, Nawada.
5. S.H.O. Excise P.S. Nawada, District - Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC 11

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-11-2023

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

“I. For issuance of Mandamus especially upon the respondent no. 2 to release the “House/Flat/Rooms of Rajkumar Prasad @ Rajkumar Yadav” registered in the name of the husband of petitioner Girija Prasad, situated under Ward No. 2, Nagar Parishad Nawada, Tauzi No. 367, Old Khata No. 28, New Khata No. 281, Old Plot No. 3047, New Plot No. 1364 Area 0.2 1/4 Decimal at Navin Nagar, P.S. and District-Nawada, which was seized in Nawada Excise P.S. Case No. 56 of 2023 for offence



punishable U/S- Sec. 30 (a), 56 (2) (i) of Bihar Prohibition and Excise Act, 2018 dated 19.01.2023 in favour of the petitioner.

II. For any other relief/reliefs for which the petitioner is entitled in the eye of law.
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2. *Prima facie*, the present writ petition is not maintainable in the absence of demand/application before the competent authority in seeking desealing of seized premises pursuant to the Excise P.S. Case No. 56 of 2023 for offences punishable under Sections 30(a), 56 (2) (i) of Bihar Prohibition and Excise Act, 2016, P.S. and district-Nawada.

3. For issuance of writ of mandamus two ingredients are necessary namely demand before the competent authority and further competent authority must have public duties in so far as redressing the grievance of the petitioner. In the present case, the first ingredient is not forthcoming to the extent that petitioner has approached the concerned authority in demanding the de-sealing of the ceased premises on this count, the petitioner has not made out a case.

4. Accordingly, the present petition stands disposed of. Disposal of the present petition would not be a hurdle in so far as invoking remedy under Rule 12-B of Bihar Prohibition and Excise Rules 2022. If such application is filed in the prescribed form before the competent authority, the competent authority is hereby



directed to examine the grievance of the petitioner within a reasonable period of three weeks from the date of petitioner’s application under Rule 12-B of Rules 2022.

5. Writ petition stands disposed of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	09.11.2023
Transmission Date	

