

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5690 of 2023

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Anil Kumar Gupta @ Anil Kumar Sah @ Anil Kumar son of Sri Manik Chand Sah @ Manik Chand Gupta @ Manikchand Residence of Bank Colony Lane No. 3B Gola Road PS Danapur District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Forest Department, Bihar, Patna.
2. Principal Secretary, Forest Department, Bihar, Patna.
3. Divisional Forest Officer, Rohtash at Sasaram.
4. Conservator of Forest Rohtash at Sasaram Circle.
5. Ranger, Darigaon Forest Precincts Rohtash at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh, Advocate
For the Respondent/s : Mr. Anant Prasad Singh, SC-15

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 25-06-2024

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for the following reliefs:

“(i) That for issuance of appropriate writ, order or direction or appropriate writ in the nature of certiorari quashing the order dated 11.7.22 passed by learned Collector cum District Magistrate Rohtash at Sasaram passed in Confiscation Appeal Case No.02/2022.



(ii) That for issuance of appropriate writ, order or direction or appropriate writ in the nature of certiorari quashing the order dated 10.06.21 passed by learned Authorised Officer cum Divisional Forest Officer, Rohtash at Sasaram passed in Confiscation Case No.99/2020(D).

(iii) That for declaration that the Confiscation of Mahindra Scorpio Vehicle Registration No. BR-01 PH 3785 was made without following the procedure prescribed under Section 52(4)(b) to Bihar Amendment Act to Indian Forest Act & Further confiscation was made without actual & proper Service of Notice as such a declaration be issued commanding the respondents that entire confiscation proceeding is vitiated in the eye of law?

(iv) That for declaration that the seizure of Scorpio vehicle bearing Registration No. BR-01-PH-3785 by Sri Lalan Mochi a Forest Constable is highly illegal & is against Section-52-D of the Indian Forest Act 1972 read with Bihar Amendment Act 9 of 1989 (Bihar Act 9 of 1990) which provides that a forest officer not below the rank of a Range officer of Forests or any Police Officer



not below the rank of a Sub Inspector, may if he has reasonable grounds to believe that any forest offence has been committed in contravention of this Act enter upon, inspect & search any place, premises appurtenances thereto, land vehicle or boat & seize any illegal forest produce & all tools, arms boats, vehicles ropes chains or any other article used in committing such offence." As such It is apparent that the Act does not empowered Sri Lalan Mochi a Forest Constable to seize the Vehicle as such the seizure of the Scorpio vehicle bearing Registration No. BR-01- PH-3785 on 26.11.20 is wholly against Section-52-D of the Indian Forest Act 1927 read with Bihar Amendment Act 9 of 1989 (Bihar Act 9 of 1990).

(v) That for declaration that the Seizure of Scorpio Vehicle Registration No. BR-01 PH 3785 in which there was no Forest Produce & was recovered/seized outside Forest Reserved Area was not liable for confiscation under Section 52 of The Indian Forest Act even in the FIR the offence under Section 186 & 189 of IPC was alleged against the petitioner in which the petitioner was acquitted as such a declaration is require to issue



that the Confiscation of Scorpio Vehicle Registration No. BR-01 PH 3785 is highly illegal & arbitrary exercise of power as such cannot sustain in the eye of Section 52(2) to Indian Forest Act particularly without following the provision under Section 52(2)(b) to Bihar Amendment Act 1990 is illegal as such a declaration is require to issue by way of mandamus that the vehicle is liable to restore to the petitioner giving Acquittal of the petitioner in Trail No.987/21 Corresponding to Sasaram (Muffasil) PS Case No. 369/2020.

(vi) That for issuance of appropriate writ, order or direction or appropriate writ in the nature of mandamus commanding the respondents to pay suitable & equitable Compensation to the petitioner since the family of the petitioner was illegally deprived of enjoyment of Scorpio Vehicle Registration No. BR-01 PH 3785 & it is apparent that the false Case was registered by the authority & the vehicle was illegally seized by the respondents.

(vii) That any other relief or relief's for which the petitioner be found entitled in law be granted to them.”



3. Learned counsel for the petitioner submits that the order impugned passed by the Collector-cum-District Magistrate, Rohtas at Sasaram on the basis of the oral submission advanced by the Public Prosecutor and the learned Public Prosecutor has no knowledge about the entire facts of the case and the learned Collector-cum-District Magistrate, Rohtas at Sasaram ignored the submission made on behalf of the petitioner and rejected the Confiscation Appeal Case No. 02 of 2022 and refused to release the Scorpio vehicle which the subject matter of the present writ petition.

4. It appears that although the petitioner has challenged the order of the Collector-cum-District Magistrate, Rohtas at Sasaram but it appears from the array of the parties-respondents the petitioner has not made the Collector-cum-District Magistrate, Rohtas at Sasaram as a party respondent in the present writ petition.

5. The Hon'ble Apex Court in the case of **Jagtu Vs. Suraj Mal and Others, reported in (2010) 13 Supreme Court Cases 769**, referring to the paragraph-6, which reads as follows:-

“6. The trial court framed a large number of issues including the issue of maintainability of the suit for non-joinder of the necessary parties. After considering



the case in totality, the trial court recorded the finding on the said issue that the suit was not maintainable for want of necessary parties and the suit was dismissed.

6. The Hon'ble Apex Court also in the case of **J.S. Yadav Vs. State of Uttar Pradesh and Another**, reported in **(2011) 6 Supreme Court Cases 570**, referring to the paragraph-31, which reads as follows:-

“31. No order can be passed behind the back of a person adversely affecting him and such an order if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice. The principles enshrined in the proviso to Order 1 Rule 9 of the Code of Civil Procedure, 1908 provide that impleadment of a necessary party is mandatory and in case of non-joinder of necessary party, the petitioner-plaintiff may not be entitled for the relief sought by him. The litigant has to ensure that the necessary party is before the court, be it a plaintiff or a defendant, otherwise the proceedings will have to fail.



7. In absence of the party, the Court is left with no other option except to dismiss the present writ petition for want of non-joinder of necessary party.

8. Dismissed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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