

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5618 of 2024

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Nagendra Kumar S/o- Sakal Ray R/o Vill-Saraiya, P.S. Dariyapur, District Saran, State-Bihar, at present Q.N E-8/9 near Railway Station, Mhow, Indore, Madhya Pradesh-453441

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary/Additional Secretary, Department of Registration and Prohibition of Excise, Department, Govt. of Bihar.
2. The District Magistrate, Saran, Chapra.
3. The Circle Officer, Parsa, Saran.
4. The Superintendent of Police Saran, Chapra.
5. The Officer in Charge, Parsa Police Station, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Pramod Kumar Yadav, Advocate
For the State	:	Mr. Ajay Behari Sinha (GA-8)
		Mr. Upendra Kumar Singh (AC to GA-8)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

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

6 27-06-2024 In the instant petition, petitioner has prayed for the following reliefs :

“For issuance of writ in nature of Certiorari for quash /set aside the order dated 15/01/2024 passed by the Learned Court of District Magistrate, Saran in connection with confiscation case no. 241/2023 arising out from Parsa, P.S case no. 78/2023 date of Registration of FIR on dated 25/03/2023 offence U/S 30(a) of Excise Act. 2016.



ii. For issuance of Appropriate directions/writs/order to the Respondent Authorities release the property which was seized and seal upon which Kanti Hotel was running whose description as Mauza-Chetan Parsa Circle Office -Parsa District Saran, Thana No. 423, Khata no. 85, Plot no. 263 Rakba -8 dhur.

iii. For issuance of Appropriate writs/directions order directing and commanding to Respondent Authorities to stop the Auction process of land and property which was confiscated in the confiscation proceeding case no. 241/2023, passed final order by, District Magistrate, Saran.iv. For issuance of Appropriate writs/direction/order for Respondent Authorities in which Petitioner is legally entitled in this case.”

2. On 15.05.2024, the following order was passed.

“District Magistrate (Saran), Chapra is hereby directed to file his personal affidavit as to how the confiscation proceeding is in order in the absence of indicating the property details. If such affidavit is not revealing the relevant Khata and Khesra No. of the property, we are compel to pass adverse order against him.

2. Re-list this matter on 26.06.2024.”



3. Today, learned counsel for the respondent-State filed personal affidavit of the Collector, Saran at Chhapra namely Priyanka Rani. Paragraph nos. 7 to 9 reads as under :

“7. That it is a fact the Investigation officer of the Parsa PS case no.- 78/2023 vide DR No. 475/2023 dated 25.03.2023 which was forwarded by the SHO, Parsa sent a request letter to the Superintendent of Police, Saran to sent proposal for confiscation of the premises bearing Khata no.- 85, Plot no. 263, area 00-00-08 dhurs situated in Chetan Parsa, P.S. Parsa, District Saran. Accordingly, the Superintendent of Police, Saran vide letter no.- 2381/Ex. Pro dated 04.05.2023 sent the proposal of the same.

8. That as per the letter 2381/Ex.Pro dated 04.05.2023 of the Superintendent of Police, Saran prohibited article was recovered from the premises bearing Khata no.- 85, Plot No. 263, area- 00-00-08 dhurs and for its confiscation recommendation was also made by the Superintendent of Police, Saran therefore, obviously, on the basis of the recommendation made by the Superintendent of Police, Saran confiscation case No. 241/2023 was initiated by the Collector, Saran vide a detail order dated 17.05.2023 wherein details of disclose /mentioned. property was disclose/mentioned.

9. That first order i.e. order dated 17.05.2023 by which confiscation proceeding was



initiated by the answering respondent the descriptions of the proposal was sent and confiscation are detail property as therefore, proceeding initiated and final order was passed against the property bearing Khata no. 85, Plot No. 263, area- 00-00-08 dhurs but due to clerical mistake and human error no detail of property could be given in the order dated 15.01.2024 for which the answering respondent regrets.”

4. Reading of the aforementioned statement it is evident that there is a total non-application of mind in passing the impugned order.

5. Accordingly, petitioner has made out a case to set-aside the order dated 15.01.2024 passed by the learned Court of District Magistrate, Saran. The District Magistrate is exercising quasi-judicial functions under the Bihar Prohibition and Excise Act, 2016 read with the Rules which are amenable to appeal and revision and further judicial review before this Court. Impugned order dated 15.01.2024 is a cryptic order without giving the details of the property, confiscation proceedings have been ordered.

6. Accordingly, the impugned order dated 15.01.2024 in Confiscation Case No. 241 of 2023 arising out of Parsa P.S. Case No. 78 of 2023 passed by the learned Court of District



Magistrate, Saran stands set aside. The concerned authority is hereby directed to pass a fresh order after due consideration of the petitioner’s objection/suggestion.

7. Petitioner is permitted to file fresh objection/suggestion in opposing the confiscation proceeding of the subject matter of property within a period of two weeks from the date of receipt of this order. On petitioner’s representation/objections in the confiscation proceedings to be filed, shall be taken note of and proceed to pass a detailed speaking order after due consideration of each of the objections to be filed on behalf of the petitioner and proceed to pass order within a period of one month from the date of receipt of the petitioner’s fresh objections and communicate the decision to the petitioner at the earliest.

8. C.W.J.C No. 5618 of 2024 stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Prakash/-

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