

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2371 of 2023

In
Civil Writ Jurisdiction Case No.5070 of 2022

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Suresh Prasad Rai Son of Ram Bilas Rai, Resident of Mohalla- Anoith
Krishna Nagar, Ward No. 43, P.S.- Nawada Ara, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Mr. Om Prakash Jha, Additional Chief Secretary, Excise Department, Bihar, Patna.
2. Mr. Om Prakash Jha, The Additional Chief Secretary, Patna.
3. Shri Vinod Singh Gunjiyal, The Commissioner, Prohibition and Excise, Government of Bihar, Patna.
4. Shri Kundan Kumar, District Magistrate-cum- Collector, Purnea.
5. Shri Navleen Kumar, Sub-Divisional Police Officer, Baisi, Purnea.
6. Sri Aamir Zaved, The Superintendent of Police, Purnea.
7. Shri Dinbandhu The Excise Superintendent of Police, Purnea.
8. Shri Ramchandra Mandal, The Station House Officer, Dagarua, Purnea.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Malti Kumari
For the Opposite Party/s : Ms. Shama Sinha AC to SC-5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 08-05-2024

The present MJC is filed for non-compliance of the
order dated 06.05.2022 passed in CWJC No. 5070 of 2022.

The subject matter of motor vehicle was alleged to have
been involved in theft case. The vehicle was alleged to have
been stolen on 05.02.2021, whereas petitioner has registered
FIR on 02.03.2021 in Kudwantnagar P.S. Case No. 97 of



2021. On 02.03.2021, Dagrao P.S. Case No. 62 of 2021 was registered for the Excise offences. Resultantly, parallel proceedings were stated to have been initiated by the official-respondents to the extent of confiscation proceedings and criminal proceedings. Insofar as confiscation proceedings is concerned it has attained finality on 09.07.2021 to the extent of confiscating the subject matter of motor vehicle. Feeling aggrieved by the confiscation order dated 09.07.2021, petitioner has preferred appeal before the appellate authority and revisional authority. In both the proceedings, he has suffered order on 28.09.2021 and 20.11.2021 respectively. Faced with these dates and events, subject matter of motor vehicle was auctioned on 07.01.2022 whereas CWJC No. 5070 of 2022 is stated to have been filed after auction proceedings were completed. Overall the petitioner may not have the knowledge of auction of subject matter of motor vehicle on 07.01.2022. Co-ordinate Bench decided CWJC No. 5070 of 2022 dated 06.05.2022 at the admission stage itself whereby the official respondents have not been provided opportunity to apprise this Court in filing counter



affidavit and apprising the dates and events relating to confiscation proceedings till auction of the subject matter of motor vehicle resulted in passing order on 06.05.2022 asking the petitioner to invoke remedy under Rule 12 A read with 57 B of Bihar Prohibition and Excise (Amendment) Rules, 2022. Therefore, there is impracticability of implementation of the Co-ordinate Bench order dated 06.05.2022 passed in CWJC No. 5070 of 2022. Therefore, no contempt of court action could be taken against the concerned official-respondents. Moreover, the official-respondents should have invoked remedy of filing civil review with a request to review the orders of this Court in the guise of various proceedings like confiscation, appeal and revision read with the auction. On the other hand, official-respondents have not resorted to such filing of civil review.

2. Be that as it may, there is no willful disobedience of the orders of this Court dated 06.05.2022 passed in CWJC No. 5070 of 2022 so as to initiate contempt of Court proceedings. Similarly, the petitioner is not entitled to any relief in the present contempt of court proceedings.



3. Accordingly, the present MJC petition stands dropped, reserving liberty to the petitioner to invoke appropriate remedy insofar as claiming any relief against the official-respondents arising out of confiscation, appeal, revision and auction proceedings, in accordance with law.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.05.2024
Transmission Date	NA

