

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14732 of 2022

1. Smt. Archana, D/o- of Late Prabhat Kumar Singh @ Bachhan Babu and W/o- Uttam Kumar @ Lallu, Resident of Mohalla- Akhtiyarpur House, Near Old Arvind Mahila College, P.S.- Kadam Kuan, District- Patna.
2. Uttam Kumar @ Lallu, S/o Late Janardan Singh, Resident of Mohalla- Kadam Kuan, Old Arvind Mahila College, P.S.- Kadam Kuan, District- Patna.

... .. Petitioners.

Versus

1. The State of Bihar.
2. The Addl. Chief Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
3. The Commissioner Excise, Bihar, Patna.
4. The District Magistrate, Patna.
5. The Senior Superintendent of Police, Patna.
6. The Officer-in-Charge, Kadam Kuan, District- Patna.
7. The Anchal Adhikari, Patna Sadar, District- Patna.
8. Sahdeo Prasad, S/o Ram Mahto, Resident of Mohalla- Laxmi Nagar, P.S.- Darbhanga, District- Darbhanga.

... .. Respondents.

Appearance :

For the Petitioners : Mr. Rakesh Kumar, Advocate.
For the State : Mr. Vikash Kumar (SC-11).

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 29-10-2024

In the instant writ petition, the petitioner has prayed
for the following relief(s):

“(i) For issuance of an appropriate writ in
quashing the order dated 24.09.2021
passed by the District Magistrate,
Patna in Confiscation Case



No.1919/2020-21 contained in
Annexure-11.

- (ii) For issuance of an appropriate writ in quashing the order dated 20.12.2021 passed by Commissioner, Excise, Bihar, Patna in Excise Appeal Case No.848/2021 affirming the order of the District Magistrate, Patna dated 24.09.2021 in Confiscation Case No.1919/2020-21, contained in Annexure-13.
- (iii) For issuance of an appropriate writ in quashing the order dated 16.03.22 passed by Additional Chief Secretary, Registration, Excise and Prohibition, Government of Bihar, contained in Annexure-14.
- (iv) For any other relief or reliefs for which the petitioners are entitled under law as well as on the facts of the case.”

2. The petitioners’ property was misutilized in storing liquor to the tune of 412.590 liters inclusive of beer and hard liquor while registering P.S. Case No.394 of 2020 on 12.09.2020 under Kadamkuan Police Station. Thereafter, the official respondents have proceeded for confiscation proceedings. The entire house building was confiscated. It is situated at Anchal



Patna Sadar, Mauza-Mohharampur 137, Ward No.11, Seat-60, M.S.P.-609, area 185 Kari.

3. Feeling aggrieved by the confiscation proceedings, petitioner preferred appeal before the Appellate Authority under Section 92 of the Bihar Prohibition and Excise Act, 2016 and the Appellate Authority confirmed the confiscation proceedings, resulted in filing revision before the Revisional Authority in which also the petitioner suffered an order, in other words, confiscation proceedings have attained finality.

4. Seizure of the aforementioned property for possessing 412.590 liters of liquor would be too harsh. On the other hand, there is alternative to confiscation of property is later on incorporated by means of Rule 12B of Bihar Prohibition and Excise Rules, 2021 read with amended Sub Rule 2 of Rule 12B in the year 2022. Rule 12-B of the Bihar Prohibition and Excise Rules, 2021 deals with the release of the premises. There is a clause relating to imposition of penalty of Rs.1,00,000/- to Rs.5,00,000/- (Rupees One Lac to Rupees Five Lacs). In this regard, learned counsel for the petitioner was asked as to whether is he willing to pay a sum of Rs.5,00,000/-, which is maximum penalty prescribed under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 for which he has



agreed. Therefore, the orders of the Confiscation Authority, Appellate Authority and Revisional Authority dated 24.09.2021, 20.12.2021 and 16.03.2022 respectively stands modified to the extent of confiscation of the subject matter of building while replacing penalty of Rs.5,00,000/-(Rupees Five Lacs). The petitioners are hereby directed to pay a sum of Rs.5,00,000/- (Rupees Five Lacs) as a penalty in the confiscation proceedings within a period of one month from today. If such payment is made, the concerned authority is hereby directed to release the subject matter of premises in favour of the petitioners after due verification of identity. The above exercise shall be completed within a period of one month from the date of deposit of the aforementioned penalty.

5. No doubt, we don't have power to modify the penalty. However, having regard to the multiple rights available to the petitioners insofar as seizure of the liquor like Confiscation Authority, Appellate Authority, Revisional Authority and further under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 instead of remanding the matter and in the interest of litigant and to give quietus litigation, we are invoking extraordinary jurisdiction under Article 226 of the Constitution of India to modify the Confiscation Order dated



24.09.2021 to the extent of imposition of maximum penalty of Rs.5,00,000/-(Rupees Five Lacs).

6. Accordingly, the orders of the three Authorities, namely, Confiscation, Appellate and Revisional dated 24.09.2021, 20.12.2021 and 16.03.2022 respectively are modified to the above extent.

7. The instant writ petition stands allowed in part. Pending Interlocutory Application(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.10.2024.
Transmission Date	NA

