

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15955 of 2024

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Rampari Devi Wife of Late Munshi Jamadar Resident of Village-
Kachhiyawa, P.O. and P.S.- Kachhiyawa, District- Nalanda, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Excise and Prohibition Bihar, Patna.
2. The District Magistrate, Nalanda.
3. The Sub-Divisional Magistrate (S.D.M.), Hilsa, Nalanda.
4. The Excise Superintendent, Nalanda.
5. The S.H.O., Nagarnausa Police Station, Nalanda.
6. The Circle Officer, Nagarnausa, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kanishka Shankar
For the Respondent/s : Mr.Government Advocate 9

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL ORDER

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

3 10-12-2024 In the instant writ petition, the petitioner has prayed

for following relief(s):-

*“(i) For issuance of order(s),
directions(s), writ(s) particularly in the
nature of the writ of certiorari for quashing
the entire proceedings in Confiscation
(Excise) Case No. 64/2023 including the
Order dated 14/03/2024 passed by the Court
of S.D.M., Hilsa, Nalanda (Respondent No.
3) (hereinafter referred to as the “Impugned
Order”) whereby and whereunder without
serving due notice, the petitioner’s property
bearing Khata No. 29, Plot No. 993, Area –
0.18 decimal located at Village –
Kachhiyawa, Dist. Nalanda is ordered to be
confiscated and auctioned without any*



authority.

(ii) For issuance of order(s), direction(s), writ(s) particularly in the nature of mandamus for directing the Respondent authorities to unseal and return to the Petitioner the seized and confiscated part of Petitioner's property being Khata No. 29, Plot No. 993, Area – 0.18 decimal located at Village – Kachhiyawa, Dist. Nalanda (hereinafter referred to as "Raiyati Land").

(iii) For issuance of order(s), direction(s), writ(s) particularly in the nature of the writ of mandamus for directing the Respondent authorities to not to proceed with the auction sale proceedings of the Petitioner's Raiyati Land during the pendency of the present Writ application.

(iv) For any other relief or reliefs for which the Petitioner may be deemed entitled to in the facts and circumstances of the case."

2. The petitioner has remedy of submission of application under Rule 12B of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12B in the year 2022 and 2023. Before invoking the aforementioned provisions and approaching the concerned authority, the petitioner has rushed to this Court. Be that as it may, even there is no representation. For seeking writ of mandamus, there must be a demand before the competent authority. At the same time, duty is cast on the concerned public authority. The first ingredient of demand before the competent authority is not forthcoming.



3. Accordingly, the instant writ petition is pre- mature and it stands disposed of as not maintainable.

4. Disposal of the instant writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12B of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023. If such application is submitted before the competent authority, in the prescribed form, the concerned authority is hereby directed to consider the petitioners' grievance within a period of two weeks from the date of receipt of such application.

5. With the above observations, instant writ petition stand disposed of.

6. If the confiscation proceedings of the residential house of the petitioner has attained finality in that event petitioner is at liberty to file an appeal under Section 92 of the Bihar Prohibition and Excise Act, 2016 before the appellate authority.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

prabhakar/-

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