

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18044 of 2024

1. Sadik Reja @ Sadique Reza son of Sahabuddin Kayam @ Shahabuddin, resident of Mohalla-Suleman Ganj, Madar Darwaza, P.O. and P.S.-Sasaram (T), District-Rohtas.
2. Rajesh Kumar Sahu Son of Late Hari narayan Sahu Resident of Mohalla - Suleman Ganj (Chowk Bazar), P.O. and P.S. - Sasaram (T), District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition and Excise Department, Govt. of Bihar, Patna.
2. The Excise Secretary, Prohibition and Excise Department, Excise and Registration, Bihar, Patna.
3. The Excise Commissioner, Govt. of Bihar, Patna.
4. The Collector cum District Magistrate, Rohtas at Sasaram.
5. The Superintendent of Police, Rohtas at Sasaram.
6. The Inspector of Excise, Rohtas at Sasaram.
7. The Officer in Charge, Sasaram (Town) Police Station, Rohtas at Sasaram.
8. Pradeep Kumar, son of Late Hari Narayan Sahu, resident of Mohalla-Suleman Ganj (Chowk Bazar), P.O. and P.S.-Sasaram (T), District-Rohtas.
9. Rajan Kumar son of Pradeep Kumar, resident of Mohalla-Suleman Ganj (Chowk Bazar), P.O. and P.S.-Sasaram (T), District-Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashwani Kumar Tiwary
For the Respondent/s : Mr.Standing Counsel (09)

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

Date : 14-05-2025

In the instant petition, the petitioner has prayed



for the following reliefs(s):-

“I For issuance of a writ in the nature of certiorari for quashing the order dated 21.08.2023 passed by the learned Excise Secretary, Bihar, Patna in Excise Revision Case No. 31/2023 whereby and where under the appellate order dated 12.06.2023 passed by the learned Excise Commissioner, Bihar, Patna in Excise Appeal Case No. 28/2023 has been affirmed illegally and arbitrary.

II. For issuance of a writ in the nature of certiorari for quashing the order dated 12.06.2023 passed by the learned Excise Commissioner, Bihar, Patna in Excise Appeal Case No. 28/2023 by which order dated 13.12.2022 passed by the learned Collector-Cum- District Magistrate, Rohtas (Sasaram) in Excise Confiscation Case No. 59/2019 has been affirmed illegally and further quashing/set aside the order dated 13.12.2022 passed by the learned Collector- Cum-District Magistrate. Rohtas (Sasaram) in Excise Confiscation Case No. 59/2019 whereby and whereunder the learned Collector confiscated the land bearing Khata No. M.S. 152, Plot No. M.S. 382/383 area 6 decimal situated in Thana No. 126, Ward (old) 9, Ward New 28 under Muhalla Chauk Bazar



illegally and arbitrary without considering the material available on the record of the case.

III. For issuance of direction upon the respondents to release the land in question bearing Khata No. M.S. 152, Plot No. M.S. 382/383 area 6 decimal in favour of petitioner.

IV. For issuance of any other order / orders / relief / reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.

2. As per the written report, the prosecution case in brief is that on 06.05.2018, the informant got an information that petitioner-Rajesh Kumar and his wife used to sell the liquor and they are selling illicit liquor near a well situated in front of their house. On getting such information, the police reached near the identified place and found that some people are drinking liquor by sitting on the well situated in front of house of petitioner-Rajesh Kumar. On seeing the police force, they began to flee away but with the help of police officials, five persons were apprehended who disclosed that illicit liquor was being sold by Rajesh Kumar and his wife. Thereafter, the house of Rajesh Kumar was searched and during search,



total 15.980 illicit liquor was recovered from abandoned constructed wall of room situated beside the stairs of the first floor of the house and accordingly, seizure list was prepared. On the basis of the aforesaid facts, Sasaram Town P.S. Case No. 717 of 2018 dated 06.05.2018 was instituted under Sections 30 (a), 35(b), 37(a)(b), 38(2) of the Bihar Prohibition & Excise Act, 2016.

3. It is submitted by learned counsel for the petitioner-Sadik Reja that he got the sale-deed executed of 2.980 decimals of land to the petitioner Rajesh Kumar Sahu vide Sale Deed No. 4241 dated 10.04.2019 and after purchase of the said land, he came to know about the order of confiscation dated 20.12.2021 passed by the Collector-Cum-District Magistrate, Rohtas (Sasaram) in Excise Confiscation Case No. 59 of 2019. Being aggrieved with the said order, the petitioner-Sadik Reja filed Excise Appeal Case No. 401 of 2022 before the Excise Commissioner, Bihar, Patna on the ground that no notice was issued to him as well as the previous owner of the land and the Collector had passed the confiscation order *ex-parte*. After considering the prayer of the petitioner-



Sadik Reja, the Excise Commissioner vide order dated 05.07.2022 has remanded back the matter before the Collector, Rohtas, Sasaram to hear the matter afresh by giving opportunity of hearing to the petitioner. The Excise (Confiscation) Case No. 59 of 2019 was restored and notice was issued to the petitioner to file his reply. However, after hearing the parties, vide order dated 13.12.2022, the Collector-Cum- District Magistrate, Rohtas (Sasaram) imposed a fine of Rs. 20,000,00/- (Twenty Lakh) for release of the land/house of the petitioner. The petitioner further submitted that being aggrieved by the order of the District Magistrate, Rohtas at Sasaram, the petitioner filed Excise Appeal No. 28 of 2023 before the Excise Commissioner, Bihar, Patna but after hearing the parties, the Excise Commissioner, vide order dated 12.06.2023 had affirmed the confiscation order and directed that if the fine imposed is not being paid for release of the land within 15 days from the date of receiving the order, the District Magistrate would take action for auction of the land. The petitioner being aggrieved with the order dated 12.06.2023 passed by the



Excise Commissioner, Bihar Patna in Excise Appeal No. 28 of 2023, had filed Excise Revision Case No. 31 of 2023 before the learned Excise Secretary, Bihar, Patna but his revision petition was also dismissed vide order dated 21.08.2023 on the ground that no new and additional facts were mentioned in the revision petition.

4. Learned counsel for the petitioner further submits that learned Collector-Cum- District Magistrate, Rohtas (Sasaram), as well as revisional and appellate authority while passing the impugned order have failed to consider the fact that the liquor was recovered from abandoned constructed wall of room situated beside the stairs of the first floor of the house which was situated on some portion of the land, but the confiscation proceeding was initiated on the whole land which is highly illegal, arbitrary and bad in the eye of law and the same is liable to be quashed. It is also submitted that the respondent authorities, while passing the order did not appreciate Rule 12A (2) of the Bihar Prohibition & Excise Rules, 2021, in which the quantum of recovered liquor is one of the key factors which has to be considered while imposing the



penalty over the seized vehicle under the Bihar Excise & Prohibition Amendment Act, 2018.

5. Learned counsel for the respondents submits that recovery of illicit liquor was made from the purchased house of the petitioner-Sadik Reja. The petitioner has alternative remedy to get the house released after making payment of penalty in terms of Rule 12(A) of the Bihar Prohibition & Excise Rules, 2021.

6. From perusal of the record, it has transpired that alleged recovery of 15.980 litres of illicit country made liquor has been made from abandoned constructed wall of room situated beside the stairs of the first floor of the house. The petitioner-Sadik Reja had purchased the said property from Rajesh Kumar Sahu and he claims that he was totally unaware about any confiscation proceeding pending against the purchased land of the petitioner.

7. In that view of the matter, this Court finds that a penalty of Rs. 5,000,00/-(Five Lakhs) is appropriate in light of the facts and circumstances of the case, for which petitioner has no objection.

8. Accordingly, the order dated 13.12.2022 passed



by the Collector-Cum- District Magistrate, Rohtas (Sasaram) vide Excise (Confiscation) Case No. 59 of 2019 is modified to the above extent.

9. We are conscious of the fact that alleged recovery is of meager quantity and the aforesaid order has been passed while invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner shall not be subjected to various proceedings like Rule of 12A of the Bihar Prohibition and Excise Rules, 2021 read Sections 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, for an issue relating to seizure of 15.980 litres of illicit liquor and the aforesaid decision is warranted to prevent multiplicity of proceeding under Excise Act and Rules, in the interest of justice.

10. Considering the facts aforesaid, the petitioner is directed to remit a penalty of Rs. 5,000,00/-(Five Lakhs) and the concerned authority is hereby directed to collect fine of Rs. 5,000,00/-(Five Lakhs) and release the land of the petitioner, which was seized, within a period of one week from the date of receipt of this order.



11. Accordingly, the writ petition stands disposed
of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15/05/2025
Transmission Date	N/A

