

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19367 of 2024

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Kanija Devi, Wife of Shailendra Paswan @ Valay Paswan, Resident of
Maghra, Police Station Deepnagar, District-Nalanda, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
3. The Excise Commissioner, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
4. The District Magistrate, Nalanda.
5. The Additional Collector cum Additional District Magistrate, Nalanda.
6. The Superintendent of Police, Nalanda.
7. The Excise Superintendent, Nalanda.
8. The Circle Officer, Bihar Sharif, Nalanda.
9. The Officer in Charge, Deepnagar, Nalanda.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Ram Swarup Prasad, Advocate
For the Respondent/s : Mr. AC to G.P. 3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-03-2025

In the instant petition, petitioner has prayed for the
following reliefs:

*“i. For issuance of appropriate
Writ/Writs, direction/directions or orders/order
especially in the nature of **Certiorari**, for quashing
& setting aside the ex-parte order dated 30/7/2024*



passed by the respondent no. 5. Additional Collector-cum-Additional District Magistrate in Confiscation (Excise) Case No. 38/2024 emanating from Deepnagar Police Station Case No. 392/2023 dated 25/8/2023 registered under section 30 (A) of the Bihar Prohibition and Excise Act, 2016 (in short "the Bihar Excise Act"), whereby and whereunder the part of the petitioner's house has been confiscated and Excise Superintendent has been directed under section 58 (5) of the Excise Act to get prepare the full particulars of part of the said confiscated house and thereupon get assess its minimum floor price by the Executive Engineer, Building Division, Bihar Shariff and the District Sub-Registrar, Nalanda and submit the challan in lieu of deposition of auction amount to the treasury upon public auction of the said confiscated house;

ii. Upon issuance of a writ of certiorari quashing the impugned ex-parte order dt. 30/7/2024, a writ of mandamus be issued on the respondent no.5, Additional Collector-cum-Additional District Magistrate by directing him to adjudicate the Confiscation Case No. 38/2024 afresh after giving opportunity of being heard to the writ petitioner;

iii. For issuance of appropriate Writ/Writs, directions/directions or order/orders to hold and declare that the very initiation of Confiscation (Excise) Case No. 38/2024-State v. Kanija Devi against the petitioner was



misconceived, void and non-maintainable on the ground that the petitioner is not the owner of the house in question from where she was said to have been found with liquor;

*iv. For issuance of appropriate Writ/Writs, direction/directions or orders/order especially in the nature of **Mandamus** directing the Respondents to release the part of the premise of confiscated house in question;*

V. For any other relief/reliefs, which the Hon'ble court may grant in general interest, that may be deemed appropriate and necessary in this case.”

2. Petitioner is stated to be daughter-in-law of the landlord of the subject matter of land, which is involved for the offences under the Bihar Prohibition and Excise Act, 2016. The concerned authority proceeded to confiscate the subject land without hearing the owner of the land. The entire confiscation proceedings stands in the name of petitioner. Ultimately, if the confiscation order is required to be implemented, in that event, right of the land owner would be affected and he has to be heard in the matter and he is not before this Court. Perusal of the facts and analysis of material, it is evident that petitioner – Kaniya Devi is not landlord of the subject land. Therefore, the State-Respondents cannot execute the confiscation proceedings against the petitioner.



3. In the light of these facts and circumstances, the petitioner has no locus insofar as confiscation proceedings read with the fact that confiscation of subject land. Accordingly, the present Writ petition stands disposed of, reserving liberty to the land owner to agitate his right before appropriate Forum and in accordance with law.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.03.2025
Transmission Date	NA

