
(2015) 04 PAT CK 0084

In the Patna High Court

Case No : CWJC Nos. 3080, 3083, 3088, 3091, 3157, 3478, 4422, 3672, 4429
and 4279 of 2015

Devbali Chauhan and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 15-04-2015

Acts Referred:

Citation : (2016) 6 FLT 104 : (2015) 4 PLJR 76

Hon'ble Judges : Jyoti Saran, J.

Bench : Single Bench

Advocate : Uma Shankar Singh, for the Appellant; Anshuman Singh, for the Respondent

Final Decision : Allowed

Judgement

Jyoti Saran, J.—Learned counsel for the parties are present. Since in each of these cases the relief prayed by the petitioners is identical hence they have been taken up together for analogous hearing and final disposal with the consent of the parties at the stage of admission itself.

2. The petitioners in each of the writ petitions seek a direction to the Divisional Forest Officer, Rohtas Forest Division, Rohtas-cum-Authorized Officer under the Forest Act, 1927, for provisional release of their respective vehicle pending adjudication in the confiscation/criminal proceedings. In each of these cases the vehicle of these petitioners stands seized on grounds of alleged violation of the provisions of the Forest Act and which has led to institution of the Forest Case which is now pending consideration in respective confiscation proceedings/criminal proceedings before the Authorized Officer who happens to be the Divisional Forest Officer, Rohtas Forest Division, Rohtas/court below.

3. The contention advanced by the learned counsel for the respective petitioners is that keeping the vehicles under the open sky to face the vagaries of the weather would serve no purpose and would only turn them obsolete rendering

them useless for any future use and which would benefit none rather it would, only result in loss.

4. Learned counsel for the respective petitioners have stated that the petitioners would not be creating any third party right nor they would alienate the vehicle pending disposal of the respective confiscation case/criminal proceedings and that they would produce the vehicle as and when required in the confiscation proceedings/criminal proceedings. It is also the contention of learned counsel that release petitions have also been filed before the statutory authority but has remained pending in most of the cases and thus these writ petitions. The individual details of the petitioner in each of the writ petitions are given hereinbelow.

(1) CWJC No. 3080 of 2015:

5. In this case the vehicle of the petitioner bearing Registration No. BR-01GA-8188 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No. 8 of 2015 which has led to registration of Confiscation Case No. 17 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(2) CWJC No. 3083 of 2015:

6. In this case the vehicle of the petitioner bearing Registration No. BR-24G-9575 was seized on allegations of transporting forest produce without, any supportive papers giving rise to Forest Case No. 13 of 2015 which has led to registration of Confiscation Case No. 21 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(3) CWJC No. 3088 of 2015:

7. In this case the vehicle of the petitioner bearing Registration No. UP-78BT-1931 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No. 9 of 2015 which has led to registration of Confiscation Case No. 9 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(4) C.W.J.C. No. 3091 of 2015:

8. In this case the vehicle of the petitioner bearing Registration No. OR-14Q-5155 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No. 81 of 2014 which has led to registration of Confiscation Case No. 103 of 2014 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(5) CWJC No. 3157 of 2015:

9. In this case the vehicle of the petitioner bearing Registration No. OR-23B-2322 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No. 4 of 2015 which has led to registration of Confiscation Case No. 11 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(6) CWJC No. 3478 of 2015:

10. In this case the vehicle of the petitioner bearing Registration No. JH-01Z-9861 was seized on allegations of transporting forest produce without any supportive papers giving rise to Dehri (T) P.S. Case No. 68 of 2015 which has led to registration of Confiscation Case No. 22 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(7) CWJC No. 4422 of 2015:

11. In this case the vehicle of the petitioner bearing Registration No. OR-14R-4125 was seized on allegations of transporting forest produce without any supportive papers giving rise to Dehri P.S. Case No. 68 of 2015 which has led to registration of Confiscation Case No. 22(H) of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(8) CWJC No. 3672 of 2015:

12. In this case the vehicle of the petitioner bearing Registration No. JH-02N-8731 was seized on allegations of transporting forest produce without any supportive papers giving rise to Forest Case No. 8 of 2014 which has led to registration of Confiscation Case No. 17 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(9) CWJC No. 4429 of 2015:

13. In this case the vehicle of the petitioner bearing Registration No. JH-02D-7314 was seized on allegations of transporting forest produce without any supportive papers giving rise to Dehri P.S. Case No. 68 of 2015 which has led to registration of Confiscation Case No. 22 of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

(10) CWJC No. 4279 of 2015:

14. In this case the vehicle of the petitioner bearing Registration No. UP-61F-5095 was seized on allegations of transporting forest produce without any supportive papers giving rise to Dehri P.S. Case No. 68 of 2015 which has led to registration of Confiscation Case No. 22(F) of 2015 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

15. I have heard learned counsel for the parties and I have perused the materials on record.

16. As I have taken note of hereinabove, the vehicles of these petitioners stand seized on allegation of being loaded with illegally mined forest produce. Though learned counsel for the respective petitioners have tried to defend the load carried on each of the vehicles but considering that the matter is pending adjudication before the statutory authority/court below, this Court would express no opinion thereon. However taking note of the circumstances that these vehicles are lying unattended under the open sky to face the vagaries of weather, this Court is of the opinion that allowing these vehicles to turn obsolete would benefit none rather it would only lead to losses and thus this Court would deem fit and proper to order for the provisional release of the vehicles subject to furnishing of supporting papers of ownership and security as deem fit and proper by the authorized officer and which release obviously would be subject to final outcome of the confiscation proceedings/criminal proceedings.

17. In the circumstances discussed, and in view of the law laid down in the case of *Sunderbhai Ambalal Desai and C.M. Mudaliar Vs. State of Gujarat*, this Court would direct the Divisional Forest Officer, Rohtas Forest Division, Rohtas-cum-Authorized Officer under the Forest Act, 1927 in seisin of the respective confiscation cases which are subject matter of the present proceedings to order for release of the respective vehicles in favour of the petitioners within four weeks of the receipt/production of a copy of the order subject to the fulfillment of the following conditions:--

(a) The petitioner shall produce all original papers supporting the ownership of the vehicle in question including the registration papers, the insurance paper, the tax token and the pollution certificate.

(b) The petitioner shall file an undertaking in the form of an affidavit that he shall not alienate the vehicle or transfer the vehicle in favour of any third party during the pendency of the confiscation/criminal proceedings and shall produce the vehicle as and when required in the confiscation/criminal proceedings.

(c) The petitioner shall furnish such security as deem fit and proper by the Divisional Forest Officer-cum-Authorized Officer, Rohtas at Sasaram which shall neither be in the form of cash nor bank guarantee.

(d) The release of the vehicle shall be governed by the final outcome of the confiscation/criminal proceedings.

With the observations and directions aforementioned, the writ petitions are allowed.