
(2008) 09 CHH CK 0020
In the Chhattisgarh High Court

Baliram Satnami	Vs	APPELLANT
The Board of Revenue and Another		RESPONDENT

Date of Decision : 23-09-2008

Acts Referred:

Forest (Conservation) Act, 1980 — Section 2

Citation : (2008) 5 MPHT 26 : (2009) 1 MPJR 42

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—The petitioner, by this petition seeks a writ of mandamus, commanding the respondents to take appropriate decision on the application for allotting the land to the petitioner for agriculture use.

2. Initially, an application was made by the petitioner before the Collector on 10-4-2003 for allotment of the disputed land. A report dated 6-5-2003 (Annexure P-3) was submitted by Tehsildar, Takhatpur, holding that the land in dispute is recorded as "Bade Jhad Ka Jangal" ?cM+s >kM+ dk taxy?, though at present there is no forest on the land in dispute. The Additional Collector after having considered the report declined to allot the land on 21-1-2004 (Annexure P-2) on the ground that since the land is recorded as "Bade Jhad Ka Jangal" the allotment cannot be granted without permission of the Central Government.

3. Being aggrieved, the petitioner preferred an appeal before the Board of Revenue. The Board of Revenue after having considered all the facts of the matter, vide order dated 11-8-2004 (Annexure P-1) affirmed the order dated 21-1-2004, passed by the Additional Collector, holding that since the land is recorded as "Bade Jhad Ka Jangal" in revenue records, no allotment can be made without the permission of the Central Government. The petitioner has preferred this petition without praying for quashing or setting aside of the order passed by the Board of Revenue and Authority below, seeking a writ of

mandamus to the respondents to allot the land.

4. Per contra, Shri Alok Bakshi, learned Counsel appearing for the respondents submits that there is a complete bar on allotment of a forest land, including "Bade Jhad Ka Jangal" without permission of the Central Government. The orders passed by the authorities below are just and proper.

5. I have heard learned Counsel appearing for the parties and perused the documents appended thereto.

6. There is no irregularity or infirmity in the order passed by the Board of Revenue. Admittedly, the land is recorded as "Bade Jhad Ka Jangal" in the revenue records. Once it is recorded as "Bade Jhad Ka Jangal", no allotment can be made by the State Authorities without obtaining permission of the Central Government. It is evident from the various decisions of the Hon'ble Supreme Court in the matter of T.N. Godavarman Thirumulkpad Vs. Union of India and others, , wherein it was held that "The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matter connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests to understood irrespective of the ownership or classification thereof."

7. It was further held in T.N. Godavarman (supra) that "in view of the meaning of the word "forest" in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within- the area of any "forest".

8. In accordance with Section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith".

9. In view of the foregoing, there is no merit in this petition. The petition is dismissed, accordingly.