
(2002) 07 PAT CK 0068

In the Patna High Court

Case No : C.W.J.C. Nos. 1899 and 1964 of 2002

Ramanuj Pandey and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-07-2002

Acts Referred:

Citation : (2002) 07 PAT CK 0068

Final Decision : Dismissed

Judgement

Aftab Alam, J.—The petitioners in these two cases are respectively the owners of the truck bearing Registration No. UP-65-H-5025 and the quicklime being carried on the truck which were seized at Tilauthu Check post in the district of Rohtas.

2. According to the respondent authorities Tilauthu check post is within Nawadih protected forest. The truck was unauthorisedly and illegally carrying quicklime which is a forest produce and, therefore, both the truck and its consignment were liable to seizure and confiscation under the provisions of the Indian Forest Act, 1927 ("the Act", hereinafter).

3. The case of the "petitioners is that quicklime is not a forest produce within the meaning of Section 2(4) of the Act and, therefore/the seizure of the quicklime and the truck and the consequent proceedings for the confiscation were illegal and without jurisdiction. Therefore, the question that falls for consideration in this case is whether or not quicklime which is obtained by heating lime stones is a forest produce within the meaning of the Act.

4. "Forest produce" is defined in Section 2(4) of the Act as follows:

"Forest produce" includes-

(a) the following whether found in, or brought from, a forest or not, that is to say timber, charcoal, caoutchouc, catechu, wood oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds (Kuth) and myrabolams, and

(b) the following when found in, or brought from a forest, that is to say,

- (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,
- (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,
- (iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
- (iv) peat, surface soil, rock, and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries).

5. Mr. Ganapati Trivedi, learned Counsel appearing in support of this writ petition submitted that quicklime was a man made article. It was not found in nature. What was found in the natural state was lime stones and quick-lime was obtained by heating lime stones by the agency of man. Mr. Trivedi strongly contended that the definition of forest produce covered only those articles which were found in their natural state and a man made article did not fall within the definition of forest produce.

6. In support of his contention, Mr. Trivedi solely relied upon a decision of the Supreme Court in *Suresh Lohiya Vs. State of Maharashtra and Another*, and he practically argued the entire case on the basis of that decision. I find it very strange and curious that Mr. Trivedi should rely upon the decision in *Suresh Lohiya* because to me that decision seems to settle the issue conclusively against the petitioners.

7. *Suresh Lohiya* was a case of bamboo mat and the question before the Court was whether bamboo mat could be held to be a forest produce within the meaning of Section 2(4)(b)(i) and (ii). It was in the context of the articles enumerated in Sub-clauses (i) and (ii) of Clause (b) of Sub-section (4) of Section 2 of the Act that it was held and observed in para 8 of that decision as follows:

We may also state that according to us the view taken by the Gujarat High Court in *Fatesing* case is correct, because though bamboo as a whole is forest produce, if a produce, commercially new and distinct, known to the business community as totally different is brought into existence by human labour, such an article into existence by human labour, such an article and produce would cease to be a forest produce. The definition of this expression leaves nothing to doubt that it would not taken within its fold an article or thing which is totally different from forest produce having a distinct character. May it be stated that where a word or expression is defined by the legislature, Courts have to look to that definition; the general understanding of it cannot be determinative. So what has been stated in *Stroud's Judicial Dictionary* regarding a produce cannot be decisive. Therefore, where a product from bamboo is commercially different from, it and in common parlance taken as a distinct product, the same would not be encompassed within the expression "forest produce" as defined in Section 2(4) of the Act, despite it being inclusive in nature. That: bamboo mat is taken as a

product distinct from the bamboo in the commercial world, has not been disputed before us and rightly.

8. Mr. Trivedi relies heavily on the aforequoted passage from the decision and prima facie it does seem to support his contention that anything which is not found in nature but is made by man by working on some natural article is not covered by the definition of forest produce.

9. It may be noted that in that case Sri Dholakia who had argued in favour of bamboo mat being a forest produce had tried to support his submission with reference to the definition of "produce" given in Stroud's Judicial Dictionary. Stroud's defines "produce" inter alia, as:

The expression "produce of mines or minerals" does not necessarily mean produce in its native state; coke may be such produce, although by combustion its chemical nature is changed. Mac S. (5th ed.), 16. citing Bowes v. Ravensworth, 15, C.B. 518, 523.

10. In paragraph 8 of the decision (quoted above) it was indeed held that what was stated in Stroud's regarding a produce was not decisive but it is to be borne in mind that observation was made in relation to the articles and things listed in Sub-clauses (i) & (ii).

11. Unlike quicklime which would fall under Sub-clause (iv), the question whether bamboo mat is a forest produce was being considered under the provisions of Sub-clauses (i) and (ii). The decision in Suresh Lohiya did not accept the submission that the expression "produce" also included an article in other than its native state in the context of Sub-clauses (i) and (ii) but expressly approved the submission in so far Sub-clause (iv) was concerned. This is evident from para 6 of the decision where it was observed as follows:

...As to this, submission of the appellant's Counsel has been that when Sub-clause (i) is read as a whole the same would clearly indicate that such produce of tree alone is contemplated which is a natural growth or product like flowers and fruits. This submission has force when the definition of forest produce is read in its entirety which would show that the definition either includes nature's gifts like charcoal, mahua flowers or miners. Wild animals of which Sub-clause (iii) speaks of is also a God's gift and not man made. Wherever the legislature wanted to include article produced with the aid of human labour, it has said so specifically as would appear from Sub-clause (iv), as it speaks, apart from minerals etc. of "all products of mines or quarries".

12. It is, therefore, evident that the decision in Suresh Lohiya made it explicit that Sub-clause (iv) by using the expression "products of mines or quarries" had also included in the definition of forest produce, articles produced with the aid of human labour. To me it, therefore, appears that in so far quicklime is concerned, the decision in Suresh Lohiya lays down exactly the opposite of what is being contended by Mr. Trivedi.

13. Further, Sub-clauses (i) and (ii) use the word "produce" which according to Stroud's would include coke which is obtained by combustion of coal as a produce of mines and minerals. It is significant to note here that in Sub-clause (iv) the word used is not "produce" but "products" of mines and quarries. The word "product" would undoubtedly take within its meaning an article coming into existence through a process of manufacture. The New Oxford Dictionary of English, Clarendon Press, Oxford, 1998 defines "produce", as noun, as follows:

Things that have been produced or grown, especially by farming dairy produce.

14. The same dictionary defines "product", also a noun, as follows:

(i) An article or substance that is manufactured or refined for sale: marketing products and services/dairy product.

A substance produced during a natural, chemical or manufacturing process: waste product.

15. It, therefore, appears plain and clear to me that quicklime is undoubtedly covered by the expression "product of mines or quarries" and it squarely falls under Sub-clause (iv) of Clause (b) of Section 2(4) of the Act.

16. Moreover, it is well known that quicklime is obtained by simply heating lime stones. It, therefore, appears to me that the process by which quicklime is obtained can hardly be said to be so elaborate or complicated as to disturb its proximity with the article found in the natural state.

17. In the light of the discussions made above, I see no merit in these two writ petitions; The two writ petitions are dismissed but with no order as to costs.