
(2017) 02 P&H CK 0201
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 3860 of 2017 (O&M)

Ravi Kumar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 28-02-2017

Acts Referred:

Punjab Land Preservation Act, 1900 — Section 4, Section 5

Citation : (2017) 2 LawHerald 1122

Hon'ble Judges : Mr. S.S. Saron and Mr. Darshan Singh, JJ.

Bench : Division Bench

Advocate : Mr. Hemant Saini, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

S.S. Saron, J.—The petitioner - Ravi Kumar seeks quashing of the order dated 19.05.2016 (Annexure P3) passed by the Hon'ble National Green Tribunal, New Delhi ("Tribunal" - for short) (respondent No. 4) by which the latter has restrained the felling and cutting of trees in the entire State of Punjab. According to the petitioner, the said order dated 19.05.2016 (Annexure P3) has been passed without taking into account the legally valid projects in which the Government of Punjab has duly granted necessary permits for cutting and felling of trees. A further prayer has been made for directing the Principal Chief Conservator of Forests and the Divisional Forest Officer, Rupnagar Forest Division, Rupnagar (respondents No. 2 and 3) to forthwith grant permits by taking action in accordance with law in a time bound manner on the application dated 02.08.2016 (Annexure P5) submitted by the petitioner for grant of permit for the felling of remaining trees for the year 2016-17 which is pending with the Divisional Forest Officer, Rupnagar Forest Division, Rupnagar (respondent No. 3) since 02.08.2016. The same is not being attended to in view of the aforesaid order dated 19.05.2016 (Annexure P3) passed by the Hon'ble Tribunal (respondent No. 4). A further prayer has been made for staying the operation of the order dated 19.05.2016 (Annexure P3).

2. The petitioner - Ravi Kumar, it is stated, is proprietor of M/s. Unique Katha Products Private Limited, District Mohali. He has entered into a contract with various companies who have been granted permits by the Divisional Forest Officer, Rupnagar Forest Division, Rupnagar (respondent No. 3) for felling and cutting of trees in villages Majri and Bari, Tehsil and District Rupnagar. The permits have been granted under the Five Year Felling Programme in terms of Sections 4 and 5 of the Punjab Land Preservation Act, 1900. However, the Hon"ble Tribunal (respondent No. 4) has passed the order dated 19.05.2016 (Annexure P3) in the case of "Dr. Amandeep Aggarwal v. State of Punjab and others" OA No. 161 of 2016 and "Peacock Environment and Wildlife Protection Society v. State of Punjab" OA No. 162 of 2016, directing all concerned officers of the Forest Department and Irrigation Department and other project authorities to restrain the felling and cutting of trees in the entire State of Punjab without specific permission of the Hon"ble Tribunal. This, according to the petitioner, has caused irreparable loss to him who has entered into an agreement with various entities on 15.06.2015 for the felling and cutting of trees for a total consideration of Rs.2.15 crore which shall expire on 30.04.21017.

3. We have given our thoughtful consideration to the matter.

4. It is to be noticed that the State of Punjab against the said order dated 19.05.2016 (Annexure P3) passed by the learned Tribunal (respondent No. 4), filed Civil Appeal D No. 33942 of 2016, titled "State of Punjab and others v. Amandeep Aggarwal and others" in Hon"ble the Supreme Court. It was submitted on behalf of the State of Punjab that the order passed by the learned Tribunal was wholly unjustified having regard to the fact that the State of Punjab had obtained all permissions required from the competent authority for felling of trees in connection with various ongoing projects. It was submitted that without taking note of such permissions, the learned Tribunal could not have issued a blanket ban on cutting of forest trees which, according to the State, would seriously hamper the ongoing developmental projects in connection with widening of the highways and in particular the construction of National Highway No. 71 in the State of Punjab. It was submitted that the State of Punjab was ready and willing to furnish whatever information that was required by the learned Tribunal. However, the projects of national importance like widening of the highways mentioned in the said case ought not to be hampered by reason of the said order dated 19.05.2016. It was submitted that Hon"ble the Supreme Court could while permitting the petitioner State of Punjab in the said case to approach the learned Tribunal for vacation of the impugned order, stay part of the said order qua National Highway No. 71 so that the ongoing project would not be adversely affected.

5. Hon"ble the Supreme Court, on the basis of the aforesaid submissions, passed an order on 28.10.2016. The operative part of the order reads as under:-

"There is in our opinion considerable merit in the submission made by Mr. Rohatgi. It is true that the State has been directed to secure certain information

including the trees removed and those planted as also the scheme under which such plantation has been undertaken yet the blanket ban on felling of trees placed by the Tribunal cannot be allowed to adversely affect the ongoing works on the highway mentioned earlier. In the circumstances therefore we deem it proper to suspend the impugned order for a period of four months from today to enable the State Government to not only execute the ongoing project mentioned above but also the other projects which are likely to be affected by the impugned order. We make it clear that the Tribunal shall be at liberty to pass any fresh order qua the projects that are already approved upon consideration of the materials that the State of Punjab may place on record. We are conscious of the fact that we are not issuing any notice to the respondent while we are suspending a part of the impugned order concerning NH-71. We are doing so only to avoid any delay in service of notice upon the respondent and the final order that may be passed. We however leave it open to the respondent, petitioner before the Tribunal to raise all such contentions as may be open to him in law after the requisite information is received by the Tribunal. With the aforesaid observation, this appeal is disposed off."

6. In the present petition, however, the petitioner seeks permits for cutting and felling of trees so as to comply with his agreement dated 15.06.2015, which has been entered into with one Baljinder Singh son of Nirmal Singh and is valid till 30.04.2017. The felling and cutting of trees is to take place by grant of permits after taking due permission from the Divisional Forest Officer, Rupnagar Forest Division, Rupnagar (respondent No. 3). These permits are to be granted under the Five Year Felling Programme in terms of notifications dated 23.09.1914, 05.10.1989 and 08.08.2012.

7. In view of the order passed by Hon'ble the Supreme Court, the Divisional Forest Officer, Rupnagar Forest Division, Rupnagar (respondent No. 3) shall initiate the process of consideration for grant of permits and in case these are found to be valid in terms of Five Year Felling Programme, prepare the same. However, the trees be not actually cut till the matter in this regard is considered by the learned Tribunal (respondent No. 4) for which the petitioner may approach as soon as possible. In the meantime, the Divisional Forest Officer, Rupnagar Forest Division, Rupnagar (respondent No. 3) may take necessary decision as to whether permits are to be issued or not which shall be undertaken within a period of three weeks from the date of receipt of copy of this order.

8. The writ petition is disposed of accordingly in the aforesaid terms.