

(2003) 07 AP CK 0009
In the Andhra Pradesh High Court
Case No : Writ Petition No. 6157 of 1999

S. Dasarathi

APPELLANT

Vs

The Divisional Forest Officer and Others

RESPONDENT

Date of Decision : 16-07-2003

Acts Referred:

Andhra Pradesh Sandalwood (Possession) Rules — Rule 7, 8(2)

Citation : (2003) 6 ALD 710 : (2003) 6 ALT 586

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : V.S.N. Sarma, for the Appellant; G.P., for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner has been granted a licence to deal in sandalwood. He was issued a show cause notice on 26.9.1984 requiring him to show cause as to why the quantity of sandalwood with him should not be confiscated for contravention of Rule 8(2) of the A.P Sandalwood (Possession) Rules (hereinafter referred to as "the sandalwood Rules") and Rule 7 of the A.P Sandalwood and Red Sanders Transit Rules (hereinafter referred to as "the Transit Rules"). The purport of the show cause notice was that he has submitted the statements of stock wrongly and suppressing the correct stocks, he has undertaken illicit transport of sandalwood to Calcutta and the truck came to be seized at Tekkali.

2. The petitioner came forward with an explanation to the effect that when the statement of stock was submitted initially, his illiterate labourers have measured the trees and logs in inches and they were treated as centimeters. According to him, the actual stock was eight tonnes and above, if measured in centimeters whereas the wrong measurement and calculation disclosed that it was only three tonnes. Taking the explanation of the petitioner into account, the 1st respondent passed an order dated 16.10.1984 confiscating 3.040 tonnes of sandalwood (heartwood chips) packed in 104 gunny bags. Aggrieved thereby, he preferred an

appeal before the 2nd respondent. The appeal was rejected through orders dated 5.6.1990. Complaining that he was not given an opportunity while disposing of the appeal and that various contentions were not dealt with, the petitioner filed A.S No. 48 of 1990 in the Court of the I Additional District Judge, Chittoor. The appeal was allowed through judgment-dated 27.1.1994 and the order of the 2nd respondent was set-aside on the ground that the petitioner was not given an opportunity. The matter was remanded to the 2nd respondent for fresh disposal, after giving an opportunity to the petitioner.

3. On receipt of notice of hearing from the 2nd respondent, the petitioner appeared and made his submissions. He reiterated the contentions that were made before the 1st respondent. Taking the same into account, the 2nd respondent passed orders dated 31.3.1994 dismissing the appeal. Thereafter, the petitioner filed C.M.A No. 30 of 1994 in the Court of the I Additional District Judge, Chittoor. The appeal was rejected through judgment dated 11.12.1998. Hence this writ petition.

4. Learned counsel for the petitioner Sri V.S.N. Sarma submits that the 1st respondent has committed several irregularities be it in the matter of effecting seizure or passing orders of confiscation. According to him, no panchanama was prepared while affecting the seizure of the material. It is also his case that the mistake as to measurements was not wanton but was accidental and as long as no finding was recorded against the petitioner that he has indulged in felling of sandalwood trees contrary to the Rules, the order of confiscation cannot be sustained.

5. Learned Government Pleader for Forests on the other hand submits that the petitioner had virtually admitted the irregularity committed in the matter of submission of statements of stock and had obtained transit permits by playing fraud on the competent authority. He submits that the appellate authority had dealt with all the submissions made on behalf of the petitioner and no interference is called for by this Court.

6. The proceedings were initiated against the petitioner by the 1st respondent alleging violation of the Sandalwood Rules and the Transit Rules. The petitioner was granted the transit permit in the year 1979. The permits were issued on the basis of the particulars of stock as submitted by the petitioner as required under the Sandalwood Rules. Since sandalwood is a precious commodity, the possession thereof is required to be strictly accounted for in accordance with the Rules. The statement submitted by the petitioner at the relevant point of time discloses that he possessed the stock of about three tonnes. It was only when a truck was intercepted at Tekkali that the 1st respondent suspected the bonafides of the petitioner in the matter of submission of the accounts. When he was required to account for the same, the petitioner came forward with a theory that the measurements furnished earlier were taken in inches by mistake and the actual measurements disclose that the stock would be of about eight tonnes. The petitioner had virtually confessed the factum of his having misled the 1st

respondent and other authorities.

7. The requirement as to furnishing of correct and accurate accounts is not an empty formality. The discrepancy between three tonnes and eight tonnes of a precious commodity like sandalwood cannot be attributed to an accidental omission or mistaken measurement. The only justification pleaded by the petitioner was that illiterate labourers have taken the measurements in inches. The petitioner cannot be heard to come forward with such lame and untenable excuse. When each particle of sandalwood is put to optimum use, this plea resulting in variation of four tonnes, cannot at all be accepted. This however, is on merits.

8. Against an order of confiscation, remedy of appeal is provided to the Conservator. Thereafter, a further appeal is provided to the District Court. In a writ petition filed against the order of the District Judge, the scope of interference is too limited. Unless it is pointed out that the Court or the authorities below have committed grave irregularity, or have failed to follow an express provision of law, this Court cannot interfere with such orders. Even if a second view is possible on merits, it is not permissible in a writ petition to substitute the findings recorded by the Court or the authorities below. Learned counsel for the petitioner is not able to point out any jurisdictional error or procedural irregularity in the decision making process. Nothing is there to indicate that the findings recorded by the authorities and the Court below are perverse. Hence the writ petition is dismissed. No costs.