

(2012) 08 SHI CK 0051

In the High Court Of Himachal Pradesh

Case No : CWP's No. 11034 of 2011-D and 11191 of 2011-J

Shri Anant Ram

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 27-08-2012

Acts Referred:

Citation : (2012) 08 SHI CK 0051

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Onkar Jairath, for the Appellant; Ramesh Thakur, Assistant Advocate General for the respondents-State, for the Respondent

Judgement

Justice Sanjay Karol, Judge

1. Petitioners and the right holders of the area applied for felling permission of the forest trees on the land in question. Their request stands rejected, in terms of order dated 11.7.2011 (Annexure P-6), operative portion of which reads as under:

Whereas the undersigned has heard at length the Petitioner, Sh Anant Ram and had given due opportunity to put forth his views in the matter, perused the Annexure P-3 and all other relevant documents as furnished by the Conservator of Forests of Hamirpur, Dharamshala, Divisional Forest officers of Dehra and Nurpur Divisions, and after application of my mind, I have come to the conclusion that, the Tikas mentioned in the Annexure P-3, i.e. Tika Baliara & Beehar of Mauza Anoh, Tehsil Fatehpur come under the definition of forest, as they found mention in the Working Plan of Nurpur Division and are being managed under the approved Working Plan, felling of trees is not permissible from these areas in accordance with the approved Ten Years Felling Programme without approval of the Hon''ble Supreme Court and the matter is decided accordingly.

(Emphasis supplied)

My attention is invited to the communication dated 24.12.2010 (Annexure P-8), addressed to the Principal Chief Conservator of Forests by the Conservator of Forest, Dharamshala, operative portion of which reads as under:

It is therefore requested that the notification dated 13.08.2010 regarding LPA issued by the Punjab Govt. as submitted by the applicant Sh. Sukhdev Singh Jamwal is also enclosed herewith for favour of perusal please. This does not seem to be relevant with this case; However in many view the Khudro Darkhtan Malkiyat Sarkar purely with the ownership of Private ownership but the same is being managed under the expired working plan of Nurpur Forest Division of Kangra Distt., may be excluded from ensuing working plan, so that the owners can manage the private land property/cut and remove the trees as per provision of LPA.

2. Considering the controversy in issue, I am of the considered view that these petitions can be disposed of, without adjudicating upon the issues which are more factual than legal, by issuing a direction to the respondents for sending the petitioners' case for approval to the Central Empowered Committee so constituted by the Hon'ble Supreme Court of India. Significantly, even before this Court, respondents, in their reply, have taken a plea that the land in question, is being presently managed under the Working Plan of Nurpur Forest Division and unless and until approval of the Central Empowered Committee is obtained, no orders in favour of the petitioners can be passed. As such, both the present petitions are disposed of with a direction to the respondents to process the petitioners' case and send the same for consideration, in accordance with law, to the Central Empowered Committee so constituted by the Hon'ble Supreme Court of India in Writ Petition (C) No. 202/95, titled as T.N. Godavarman Thirumulkpad versus Union of India and others. Needful be positively done within a period of three months from the production of certified copy of this order.

Pending application(s), if any, also stand disposed of.