

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

LPA No.1 of 2022

Decided on:28.03.2023

State of H.P. & Others Appellants

Versus

Devinder Kumar & Another ...Respondent

Coram:

Hon'ble Ms. Justice Sabina, Acting Chief Justice.

Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?

For the appellants : Mr. Anup Rattan, Advocate General
with Mr. Pranay Pratap Singh,
Additional Advocate General.

For the respondents : Mr. Ajay Sharma, Senior Advocate
with Mr. Atharv Sharma,
Advocate, for respondent No.1.

Mr. Nand Lal Thakur, Sr. Penal
Counsel, for respondent No.2/Union
of India.

Sabina, Acting Chief Justice (Oral).

Appellant-State has filed the Letters Patent Appeal, challenging the order dated 5th April, 2021, passed by the learned Single Judge, whereby, writ petition filed by respondent No.1 was partly allowed.

2. We have heard learned counsel for the parties and have gone through the record available on the file, carefully.

3. Respondent No.1 had filed the writ petition challenging the letter dated 30th March, 2019 and had sought a direction to the appellants to consider and grant necessary approval for removal of the dry and fallen trees.

4. Learned Single Judge, after considering the Notification dated 11.03.1999, vide order dated 5th April, 2021, passed in CWP No.981 of 2019, partly allowed the writ petition filed by respondent No.1.

5. Operative part of the order dated 5th April, 2021, reads as under:-

“10. Accordingly, without making any further observation, this writ petition is partly allowed by directing the respondents to process the cases of the land owners submitted by the petitioner, subject matter of this writ petition, on the strength of the contents of Notification dated 11.03.1999. The effect of various orders passed by Hon’ble Supreme Court in T.N. Godavarman Thirumulkpad’s case (supra), but obvious, will be taken into consideration by the Authority concerned, however, in light of the contents of Notification dated 11.03.1999. This be done within a period of 90 days from today. However, this Court is not making any observation with regard to the outcome of the application(s) so submitted by the petitioner of the land owners, on

the basis of the contents of Notification dated 11.03.1999 and the Authority concerned shall pass appropriate orders on the application(s) of the land owners, in view of the law of the land as well as other Notifications etc. governing the field.

11. Before parting with the judgment, this Court wants to make one observation that in facts, akin to the present case, cause of action to file the petition, if any, accrues in favour of the land owners and not the intended purchaser of forest produce. Of course, in case the land owners so choose, they can file the petition through their Attorney, be it General or Special, however, the petitioners have to be land owners, in any case. With this observation, the petition stands disposed of, in above terms, so also pending miscellaneous applications, if any.”

6. Thus, learned Single Judge has directed the appellants to process the case of the land owners submitted by respondent No.1 in terms of Notification dated 11th March, 1999. It has been further directed that the decision of the Hon'ble Supreme Court in *T.N. Godavarman Thirumulkpad's* case (*supra*), was also to be taken in consideration. Thus, the learned Single Judge has only directed the appellants to process the case of the land owners submitted by respondent

No.1. The appellants are, thus, at liberty to process the case of the land owners in terms of the Notification dated 11th March, 1999 as well as decision given by the Hon'ble Supreme Court in *T.N. Godavarman Thirumulkpad's case (supra)*. Hence, no ground for interference is made out.

7. Letters Patent Appeal stands disposed of accordingly.

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

**(Sabina)
Acting Chief Justice**

**March 28, 2023
(Yashwant)**

**(Satyen Vaidya)
Judge**