



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO.435 OF 2017 (DEC/INJ)

BETWEEN:

SYED KHURUM PASHA
S/O LATE SYED HAYATH PASHA
AGED ABOUT 50 YEARS
R/A NO.3132, CONVENT ROAD
LASHKAR MOHALLA
MYSORE

REPTD. BY HIS GPA HOLDER
MR RUDRESH B
S/O CHIKKAPPA
AGED ABOUT 61 YEARS
HOUSE NO.3689, PULIKESHI ROAD
THILAKNAGAR
MYSURU.

...APPELLANT

(BY SRI. ABUBACKER SHAFI, ADVOCATE)

AND:

1. THE ASSISTANT CONSERVATOR OF FORESTS
MYSURU SUB DIVISION
MYSURU
2. THE DIVISIONAL FOREST OFFICER
ARANYA BHAVANA
MYSURU DIVISION
MYSURU.
3. THE DEPUTY CONSERVATOR OF FORESTS
MYSORE DISTRICT
MYSURU.

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KARNATAKA



4. THE RANGE FOREST OFFICER
MYSORE RANGE
ARANYA BHAVANA
MYSURU.

...RESPONDENTS

(BY SRI SESHU.V, ADDITIONAL GOVERNMENT ADVOCATE FOR
R1 TO R4)

THIS RSA IS FILED UNDER SECTION 100 OF CIVIL
PROCEDURE CODE, AGAINST THE JUDGMENT AND DECREE
DATED 30.04.2016 PASSED IN R.A NO.211/2014 ON THE FILE
OF THE II ADDL. DISTRICT JUDGE, MYSURU, DISMISSING THE
APPEAL AND CONFIRMING THE JUDGMENT AND DECREE
DATED 01.08.2012 PASSED IN O.S NO.859/2008 ON THE FILE
OF THE III ADDL. I CIVIL JUDGE AND JMFC, MYSORE.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri Abubackar Shafi, learned Counsel for the
appellant and Sri Seshu, learned Additional Government
Advocate for respondent Nos.1 to 4.

2. Unsuccessful plaintiff is the appellant in this second
appeal. He has filed suit for declaration and mandatory
injunction in respect of the following property (hereinafter
referred to as 'suit property'), wherein he was running a saw



mill with the name and style of "Standard Wood Industries and Saw Mill":

"M/s 'Srikantha Wood Industries and Saw Mill" situated at No.121, 11th Cross, Chamundeshwari Road, Gandhinagar, Mysuru and bounded on:

East by	:	Road
West by	:	Property bearing No.125 and 126
North by	:	Remaining portion of property bearing No.121
South by	:	Property bearing No.122.

3. It is the case of the appellant that father of the plaintiff by name Hayath Pasha was running the said sawmill after obtaining necessary license from the Forest Department. Father of the plaintiff died on 12.05.2001, leaving behind his sons namely Syed Khurum Pasha, Syed Akram Pasha, Syed Mukram Pasha, Syed Chakram Pasha and Syed Vikram Pasha. All the other children of the plaintiff have given no objections to the plaintiff to get transfer Saw Mill licence to his name from



the name of their father also to shift the industries to new premises to the property detailed in the suit property.

4. Plaintiff after paying necessary fee submitted an application to defendant No.2 seeking transfer of licence in his name from his deceased father name and also applied for renewal of the licence for the period 2001-02. Along with the application, permission was also sought to shift the industries to the suit property. Second defendant though received such an application, failed to act on it and did not even care to reply.

5. It is his case that officials of the Forest Department visited the plaintiff's running industry and furnished necessary report and despite the same, there is no renewal.

6. It is further contented by the plaintiff that on 10.04.2002, 25.04.2003, 31.03.2004, 02.04.2005, 10.04.2006 and 10.04.2007, submitted the applications along with the necessary fee to defendant No.2 to renew the licence. But, there is no positive response from defendant No.2.

7. It is his further case that when he went for the renewal of the licence in the year 2008-09 along with the prescribed fee and the office of the fourth defendant namely, Forest Range Office on 21.04.2008, he noticed that there was a



notice issued by the department on 14.05.2008 from the office of the first defendant stating that documents were required to be produced before the concerned officer on 20.05.2008, but there was no response from the plaintiff.

8. It is further alleged that said Saw Mill is established illegally and directed that the Saw Mill is to be vacated. Hence the plaintiff filed suit for declaration and injunction.

9. Pursuant to the suit summons, defendants entered appearance and first defendant filed written statement denying the plaint averments.

10. The written statement also referred to the power of the Forest Department in dealing with the property pursuant to the order of the Hon'ble Apex Court in W.P.No.202/1995 pursuant to which, notification came to be issued. Therefore, acting under the relevant provisions, the request of the plaintiff cannot be granted and sought for dismissal of the suit.

11. Learned Trial Judge after raising necessary issues recorded the evidence of the parties and noted that plaintiff had no legal right to seek for renewal of the license and dismissed the suit.



12. Being aggrieved by the same, plaintiff filed an appeal before the First Appellate Court in R.A.No.211/2014.

13. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-appreciation of the material evidence on record dismissed the appeal of the plaintiff holding in paragraph 9 as under:

"Having regard to the nature in which the relief is sought for in the plaint, I am of the opinion that the suit itself was not maintainable. The plaintiff has sought the relief of declaration to declare that the notice issued by the 2nd defendant as null and void. There are no pleadings supporting to declare the said notice as null and void. The jurisdiction of this 2nd defendant to issue such notice in performance of his duty enjoined by law is not called in question. Under such circumstances, the notice cannot be declared as null and void. The plaintiff alleges that similar application moved by the other persons is entertained and their licence are renewed, but he is treated differently. In support of the same he has produced the documents at Ex.P2 to P14. There is no such substance in this plea also. If the contents of Ex.P15 notice is perused the competent authority/the defendant No.4 had directed the plaintiff to produce the necessary documents in support of application seeking renewal of licence. Mere issuance of that notice does not violate any civil right of the plaintiff. Instead of complying the notice, the plaintiff has approached the civil Court. Under Rule 163(10) of



*Karnataka Forest Rules, a provision for appeal is made against the refusal to renew the licence and it provides for effective forum to address the grievance of plaintiff. Thus conferring of jurisdiction on appellate authority under Rule 163(10) of Karnataka Forest Rules also ousted the jurisdiction of the civil Court. Further unless the plaintiff averred necessary facts to show that Ex.P15 notice was nullity the suit itself is not maintainable. What the plaintiff has alleged is only illegality on part of defendants, which is also not substantiated. Apart from the above aspect the plaintiff should have required to produce the document and sought renewal as required under the impugned notice. Further it is not in appropriate to observe that the renewing of licence is the discretionary power. The discretionary power cannot be enforced by the issuance of mandatory injunction by the civil Court. Hence, the plaintiff was not entitled for the relief of mandatory injunction. The statute confers the jurisdiction upon the defendant authorities to carry out the object of law in protecting the forest and search and raid the timber Mills running illegally. Hence, even permanent injunction cannot be issued in favour of the plaintiff. Hence, In my opinion, the very suit itself is not maintainable. Under such circumstances, I do not find that the dismissal of the suit by the lower Court as illegal, calling for interference by this Court. Accordingly, **point No.1 is answered in affirmative and point No.2 in the negative.**"*



14. Being further aggrieved by the same, plaintiff has filed the present appeal on the following substantial questions of law:

- i. Whether it is correct without giving a chance to the Appellant/Plaintiff to cross examine DW-1, drawing a negative conclusion and dismissing the suit filed by the Appellant/Plaintiff ?*
- ii. Though the courts below taken note of the admission of the 1st Defendant with regard to the running of saw mill in the name and style of Srikanth Wood and Saw Mill at the address mentioned in the suit schedule but still dismisses the suit whether such a move is legally correct?*
- iii. In the findings of the Courts below are in accordance with law?"*

15. Sri Abubackar Shafi, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that the fee paid by the plaintiff is accepted by the defendants without any objection and therefore the license was extended from time to time till upto the year 2007 and in the year 2008 only, the plaintiff got a notice on 14.05.2008 from the first defendant which is far from truth and



therefore, plaintiff had every right to seek for renewal of the lease especially when there was no response from the defendant Nos.1 to 4 in the earlier years and it was being renewed from year to year after accepting the fee.

16. In other words, Sri Shafi would contend that the renewal is deemed renewal in the absence of any communication by the Forest Department for the earlier years. Thus, defendants cannot unilaterally refuse to renew the licence for the year 2008, which necessitated the plaintiff to file the suit which has not been properly appreciated by both the Courts and wrongly dismissed the suit of the plaintiff resulting in miscarriage of justice and thus sought for admitting the appeal on the aforesaid substantial questions of law.

17. Per contra, learned Additional Government Advocate would oppose the appeal grounds by contending that the directions issued by the Hon'ble Apex Court in W.P.No.202/1995 and 171/1996 has been adhered to by the Forest Department and necessary notification has been issued. He would further argue that Section 163 of the Forest Act empowered the defendants to take back the possession of the property which was the forest property in view of the



notification and therefore necessary notice has been issued which aspect of the matter has been rightly appreciated by both the Courts and rightly dismissed the suit of the plaintiff which requires no interference by this Court and sought for dismissal of the appeal.

18. Having heard the arguments of both sides, this Court perused the material on record meticulously.

19. On such perusal of the material on record, whenever the plaintiff seeks for the declaration, he must make out a legal right.

20. In the case on hand, admittedly father of the plaintiff was only a licensee.

21. A licensee after expiration of the license period does not enjoy any legal right to compel the particular licensor to issue the license.

22. Thus, the notice issued by the Forest Department and not renewing the license is just and proper on the factual aspects of the matter especially in the notification which came to be issued by the department pursuant to the directions issued by the Hon'ble Apex Court in the W.P.No.202/1995 and W.P.No.171/1996.



23. Thus, having regard to scope of Section 100 of Code of Civil Procedure, this Court does not find any merit in any one of the substantial questions of law.

24. Accordingly, the following:

ORDER

- (i) Admission is declined.
- (ii) Appeal is dismissed.

**Sd/-
(V SRISHANANDA)
JUDGE**

MR
List No.: 1 SI No.: 46