



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO. 1321 OF 2023 (GM-FOR)

BETWEEN:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
FOREST DEPARTMENT,
M.S. BUILDING,
BENGALURU-560 001.
2. ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF
FORESTS
ARANYA BHAVAN,
18TH CROSS, MALLESHWARAM,
BENGALURU-560 003.
3. SRI. BRIJESH KUMAR, IFS.,
PRESENTLY WORKING AS CONSERVATOR OF
FORESTS,
SHIVAMOGGA DIVISION,
SHIVAMOGGA.
4. SRI. S. VENKATESAN, IFS.,
S/O. K. SUNDARMURTHY,
PRESENTLY WORKING AS
DEPUTY CONSERVATOR FORESTS,
SHIVAMOGGA CIRCLE,
SHIVAMOGGA.

Digitally signed
by SUMATHY
KANNAN
Location: HIGH
COURT FOR
KARNATAKA
BENGALURU



5. THE ASSISTANT CONSERVATOR OF FORESTS
GOVERNMENT, SANDALWOOD QUOTA (DEPOT),
SHIVAMOGGA DIVISION,
SHIVAMOGGA.

...APPELLANTS

(BY SMT. PRAMODHINI KISHEN, AGA)

AND:

KARAKUSHALA KAIGARIKA SAHAKARA SANGH LTD.,
BACKCHOWDI TALUK AND DISTRICT,
BIDAR,
WITH ITS ADMINISTRATIVE OFFICE,
HOUSE NO. 91/42,
8TH MAIN, 14TH CROSS,
LAKKASANDRA EXTENSION,
WILSON GARDEN,
BENGALURU,
REPRESENTED BY ITS FARMER PRESIDENT AND
AUTHORIZED REPRESENTATIVE
SRI. VAIJANATH,
S/O. GUNDAPPA.

...RESPONDENT

(BY SRI. ANAND B MUDDAPPA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO ALLOW THE WRIT APPEAL AND
SET ASIDE THE IMPUGNED ORDER DATED 15.12.2022 PASSED
BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT IN
THE WP No-2602/2012 BY THE LEARNED SINGLE JUDGE.

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

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU



ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

The writ appeal is preferred challenging the judgment in W.P.No.2602/2012 dated 15.12.2022 passed by the learned Single Judge of this Court.

2. We have heard Smt. Pramodhini Kishan, learned Additional Government Advocate appearing for the appellants as well as Sri. Anand B Muddappa, learned counsel appearing for the respondent.

3. The writ petition was filed seeking to quash the order dated 22/23.08.2006 passed by the Deputy Conservator of Forests in file No.B3-Srigandha-ca-45/2005-06 produced at Annexure-T and also to quash the order dated 13.01.2012 passed by respondent No.3 in Case No.1/Sec/(109)/08-09 produced at Annexure 'X' and also to issue a direction to respondents No.3 and 4 to refund the fixed deposit amount of Rs.26,97,842/- with interest accrued thereon, in favour of the petitioner.



4. The learned Single Judge, after considering the contentions advanced had set aside the order vide Annexure-Y dated 13.01.2012 and directed the respondent authorities to reconsider the issue of refund of fixed deposit of Rs.26,96,842/- with accrued interest in favour of the petitioner, afresh, after hearing them.

5. The learned Additional Government Advocate submits that the State Government by Order dated 23.05.2003 permitted supply of 10 metric tons of sandalwood billets to respondent No.1-Sahakara Sangha for three years from 2005-06 at 50% of the market value. An Official Memorandum stipulated that payment of market value with applicable taxes must be made in advance before supply. Pursuant to an order dated 01.06.2005, 10 metric tonnes of sandalwood were sold on 13.06.2005 at 50% of market value for Rs.56,31,165/-, which was paid by the respondent through demand draft.



6. It is further submitted that as the rates were revised on the dates of supply, an undertaking dated 26.10.2005 was given stating that the Government had raised the price with effect from 04.07.2005 and that the difference for 4085 kilograms amounted to Rs.23,20,000/- as security deposit. It is contended that the respondent did not pay the difference amount as per the revised rate for the entire 10 metric tonnes of sandalwood. Accordingly, a demand dated 22.08.2005 and a further demand dated 16.04.2009 were raised for Rs.57,45,321/-. The demand dated 16.04.2009 was challenged in W.P. No.27037/2009, and this Court by Order dated 22.11.2010 upheld the demand of Rs.57,45,321/- payable by the respondent as per the revised rates.

7. It is further submitted that appellant No.3 initiated proceedings under Section 109 (Recovery of Money due to Government) of the Karnataka Forest Act, 1963. After hearing the parties and taking note of the encashment of the security deposit of Rs.23,20,000/- and



the amount deposited by the respondent in 2006-07, it was calculated that Rs.45,81,908/- was already recovered and that only Rs.11,63,413/- was payable. However, by order dated 24.12.2010, appellant No.3 held that the said amount was not due from the respondent, without knowledge of the Order passed by this Court in W.P.No.27037/2009 dated 22.11.2010. The order dated 24.12.2010 was considered by the Division Bench of this Court in W.A.No.12/2011, which noted that action had been taken during the pendency of the appeal and rendered the appeal infructuous. Thereafter, the Principal Chief Conservator of Forest, by several letters, directed appellant No.3 to reconsider the order dated 24.12.2010, as the demand dated 16.04.2009 for Rs.57,45,321/- had been upheld by the learned Single Judge in W.P. No.27037/2009. In view of this, the order dated 24.12.2010 was withdrawn by appellant No.3 by order dated 13.01.2012 (Annexure-Y).



8. It is further submitted that the respondent challenged the demand dated 22/23.08.2006 and the review order dated 13.01.2012. This Court held that the review order dated 13.01.2012, was without jurisdiction and quashed it. It is contended that since the judgment of this Court in W.P. No.27037/2009 has attained finality, and the demand for Rs.57,45,321/- is just and liable.

9. The learned counsel appearing for the respondent contends that the Order dated 16.11.2010, recorded that the entire transaction for supply of sandalwood for the year 2005-06 was completed and also observed the vindictive conduct on the part of the concerned officers, directing initiation of appropriate action. It is contended that appellant No.4, by affidavit dated 20.11.2010, made false statements suppressing material facts, including falsely stating that the amount deposited by the petitioner had been repaid. Relying on the said affidavit, this Court dismissed the writ petition on



22.11.2010, which is alleged to have been obtained by fraud and misrepresentation.

10. It is contended that the amount of Rs.23,20,000/-, relating to the 2005-06 transaction, was not repaid but was kept in fixed deposit and, with accrued interest, amounted to about Rs.26,97,842/-, which was later encashed by appellant No.4 on 07.08.2009, as evidenced by RTI documents and bank records. appellant No.3 passed an order dated 24.12.2010 stating that the sale stood concluded upon receipt of consideration on 13.06.2005, that delay in delivery was on the part of the department, and that the petitioner was not liable to pay any differential amount. It is further contended that after disposal of the writ appeal on 14.06.2011, appellant No.3, without jurisdiction, issued a notice dated 16.12.2011 seeking to reopen the case under Section 109 of the Karnataka Forest Act, followed by the respondent's reply dated 12.01.2012. Appellant No.3, by order dated 13.01.2012 (Annexure-Y), improperly withdrew his own



earlier order dated 24.12.2010 (Annexure-W), thereby affecting the respondent's rights and rendering earlier proceedings infructuous.

11. We notice that the learned Single Judge has considered the factual aspects of the matter and has specifically found in paragraphs No.12 and 17 of the judgment, as under:

"12. From the arguments advanced by the learned counsel appearing for the parties, it could be concluded that the petitioner-Sangha has accepted the (Annexure-W) and as such, the Division Bench of this Court by order dated 14th June, 2011 (Annexure-W1), accepting the memo filed by the petitioner-Sangha herein, disposed of the Writ Appeal as having become infructuous. After the disposal of the Writ Appeal, the Conservator of Forests, Shivamogga Circle, Shivamogga, reviewed the order dated 24th December, 2010 (Annexure-W), as per Order dated 13th January, 2012 (Annexure-Y), which is impugned in this writ petition. It is well-settled principle in law that the respondent-Authority, being quasi-judicial authority, has no jurisdiction to review or recall or rectify their earlier order, unless the statute provides for the same. On careful examination of Section 109 of the Act, the Conservator of Forests, has no authority under law to review its earlier order. In this regard, it is relevant to



extract the observation made by the Hon'ble Supreme Court in the case of GRINDLAYS BANK (supra), wherein at paragraph 13, it is observed thus:

"13. We are unable to appreciate the contention that merely because the ex parte award was based on the statement of the manager of the appellant, the order setting aside the ex parte award, in fact, amounts to review. The decision in Narshi Thakershi V. Pradyuman Singhji is distinguishable. It is an authority for the proposition that the power of review is not an inherent power, it must be conferred either specifically or by necessary implication. Sub-sections (1) and (3) of s.11 of the Act themselves make a distinction between procedure and powers of the Tribunal under the Act. While the procedure is left to be devised by the Tribunal to suit carrying out its functions under the Act, the powers of civil court conferred upon it are clearly defined. The question whether a party must be heard before it is proceeded against is one of procedure and not of power in the sense in which the words are used in s.11. The answer to the question is, therefore, to be found in sub-s. (1) of s. 11 and not in sub-s. (3) of s.11. Furthermore, different considerations arise on review. The expression 'review' is used in two distinct senses, namely (1) a procedural review which is either inherent or implied in a court or Tribunal to set aside a palpably erroneous order passed under a misapprehension by it, and (2) a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. It is in the



latter sense that the Court in Narshi Thakershi's case held that no review lies on merits unless a status specifically provides for it. Obviously when a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected ex debito justitiae to prevent the abuse of its process, and such power inheres in every Court or Tribunal."

17. Next, in respect of the submission made by the learned Counsel for the respondent that doctrine of resjudicata is applicable to the facts on hand as the grounds urged in this Writ Petition are in pari materia with the averments made in Writ Petition No.27037 of 2009 is concerned, this regard, careful examination of the order dated 22nd November, 2010 makes it clear that this Court, dismissed the writ petition and justified the order dated 16th November, 2009 (Annexure-T) passed by the Deputy Conservator of Forests, Shivamogga. However, upon passing the order dated 14th June, 2011 in Writ Appeal No.12 of 2011 by the Division Bench of this Court, the order passed by the learned single Judge in Writ Petition No.27037 of 2009, merges with the order passed in the Writ Appeal. It is notable to say that the Division Bench disposed of the Writ Appeal as having become infructuous based on the order dated 24th December, 2010 passed by the Conservator of Forests, Shivamogga Circle (Annexure-W). Strangely, pursuant to the disposal of the Writ Appeal, the Conservator of Forests, Shimoga, has reviewed the said order and passed the impugned order dated 13th January, 2012 withdrawing the earlier



order made on 24th December, 2010 and, has come to conclusion as above stated that the quasi-judicial authority has no jurisdiction to review their earlier order, I do not find any acceptable ground as urged by the learned counsel appearing for the respondent that the doctrine of res judicata is applicable to facts on record. It is an undisputed fact that the order dated 24th December, 2010 (Annexure-W) and order dated 13th January, 2012 (Annexure-Y), passed by the Conservator of Forests, Shivamogga Circle were not the subject matter in writ petition No.27037 of 2009. Hence, points 1 and 2 framed above, favours the petitioner."

12. Having considered the contentions advanced, we notice that the price of the sandalwood billets was fixed on 01.06.2005 and the amount demanded was deposited by the respondent on 13.06.2005 pursuant to which the supply was made.

13. We also notice that Ex.D2 demand was made on 16.04.2009 demanding an amount of Rs.57,45,321/- towards the difference in the price of sandalwood billets. The said demand was challenged by the respondent in W.P.No.27037/2009 and the writ petition was disposed of with a finding, which reads as under:-



"3. In the light of the observations made by this Court in its order dated 16.11.2010 and this day, it is seen that the 3rd respondent has properly explained the circumstances under which Annexure-S is issued and on going through the annexures available on record, this Court is of the opinion that the demand made by 3rd respondent in Annexure-S dated 16.04.2009 is just and proper and in consonance with the terms and conditions under which the sandal wood was agreed to be supplied by the respondents to the petitioner vide order dated 1.06.2005. Therefore, there is no irregularity or illegality in the demand made by the respondents under Annexure-S calling upon the petitioner to pay the aforesaid amount of Rs.57,45,321/- which is more carefully seen in Annexure-R1 produced by the respondents along with its statement of objections."

14. The demand made as per Ex.D2 i.e., Annexure-S before the Court in W.P.No.27037/2009, was upheld. However, the matter was taken in appeal and Writ Appeal No.12/2011 was pending before this Court. While so, an order dated 24.12.2010 was passed, which is produced along with the writ petition as Annexure-W. The operative portion of Annexure-W reads as under:-



"In the light of the reasons and findings stated above, the amount of Rs.11,63,413 (Rupees Eleven Lakh Sixty Three Thousand, Four Hundred and Thirteen) as claimed by the complainant is not justifiable and hence not due from the respondent."

15. The said order was produced before this Court in the writ appeal and the appeal was disposed of noticing the passing of the order at Annexure-W as having become infructuous.

16. It is thereafter, vide Annexure-Y order was passed on 13.01.2012, reviewing Annexure 'W' and contending that the finding of the learned Single Judge in W.P.No.27037/2009 is binding on appellant No.3 and that Annexure-W, was incorrect. It is noticing these factual aspects that the learned Single Judge held that since the writ appeal was disposed of in the light of Annexure-W Order, there could not have been a review of Annexure-W without a review of the judgment of the Division Bench in Writ Appeal No.12/2011. We agree with the said finding of the learned Single Judge.



17. In the facts and circumstances of the instant case and in the light of the facts narrated above, we are of the opinion that the finding of the learned Single Judge was fully justified, we find no reason to interfere in the intra-Court appeal, the same fails and is accordingly ***dismissed.***

All pending Interlocutory Applications shall stand *disposed of.*

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

sks/cp*