

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5204 OF 2014

M/s. Arondha Properties Pvt. Ltd. .. Petitioner
VS.
Tree Officer & Range Forest Officer
Sawantwadi, Dist: Sindhudurg & Ors. .. Respondents

Mr. Mahesh Rawool for Petitioner.
Mr. S. D. Rayrikar – AGP for Respondent Nos. 1 to 4.

CORAM : M. S. SONAK, J.
DATE: 20 JANUARY 2015

P.C. :-

1] Rule, with the consent of and at the request of the learned counsel for the parties, Rule is made returnable forthwith.

2] This petition is directed against the order dated 1 March 2012 made by the Tree Officer and Range Forest Officer under the Maharashtra Felling of Trees (Regulation) Act, 1964 ("said Act").

3] As against the order dated 1 March 2012, the petitioner had preferred an appeal to the Assistant Conservator of Forest by invoking the provisions of Section 6 of the Act read with Chapter 13 of the Maharashtra Land Revenue Code, 1966. However, the appellate authority, by order dated 11 April 2012 has declined to entertain the appeal by observing that it will be appropriate if the petitioner prefers an appeal before the High Court.

4] With regard to this very petition and this very incident, orders had been made on 10 May 2011 and 25 March 2011 by the Deputy Tree Officer & Range Forest Officer under Section 4 of the said Act. As against the same, the petitioner had preferred writ petition nos. 8513 of 2011 and 8569 of 2011. The same were entertained by this Court, as prior to making of the said orders, no opportunity of hearing was found to have been afforded to the petitioner. On the aspect of availability of alternate and efficacious remedy, however, this Court in its judgment and order dated 15 November 2011 observed thus :

“Considering the controversy involved in the Petitions and in view of the Judgment of the Division Bench referred to above, though in my opinion, as there is efficacious statutory remedy of filing an Appeal as contemplated by Section 6 of the Act read with Chapter 13 of MLR Code, 1966 and though such an Appeal will lie before the Assistant Conservator of Forests, who is immediate superior officer in the hierarchy of the Forest Department; in the facts of this case, since personal hearing is not offered in the first case and even reply was not filed and in the second case, personal hearing was not offered though reply was filed, the petitions are entertained so as to ensure that a personal hearing is given”.

5] The aforesaid observations make it clear that as against the order made by the Tree Officer under the said Act, there is an alternate, efficacious, statutory remedy of filing an appeal under Section 6 of the said Act read with Chapter 13 of Maharashtra Land Revenue Code, 1966 before the Assistant Conservator of Forests,

who is the immediate superior officer in the hierarchy of the forest department.

6] In view of the aforesaid, even though the petitioner has not challenged the order dated 11 April 2012, by which the appellate authority declined to exercise jurisdiction vested in it, the said order dated 11 April 2012 is hereby quashed and set aside. The appeal preferred by the petitioner as against the order dated 1 March 2012 before the Assistant Conservator of Forest is restored and the Assistant Conservator of Forest is directed to decide the same on merits and in accordance with law, as expeditiously as possible and in any case within a period of three months from today. The petitioner to produce an authenticated copy of this order before the Assistant Conservator of Forest on 3 February 2015 at 11 a.m. and thereafter obtain further directions in the matter of disposal of the appeal.

7] Rule is made absolute to the aforesaid extent.

8] All parties to act on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)