

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO.391 OF 2003

(The State of Maharashtra Vs. Rajkumar Murlidhar Shende & another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Prashant Gode, Spl. Counsel for the appellant.
Shri M. P. Khajanchi, Advocate for respondent No.1.

CORAM : A. B. CHAUDHARI, J.
: 18 NOVEMBER, 2015

Criminal appeal stands disposed of in terms of the following order passed by this Court in Criminal Appeal No.303 of 2003 (*State of Maharashtra Vs. Rajkumar Shende & another*) on 08/7/2015. :

“This appeal against acquittal has been filed by the appellant/ State Range Forest Officer, Dhanora, Tq. Dhanora, District Gadchiroli.

Seen the judgment and the reasons recorded by the learned trial Judge. The encroachment was alleged to have been made on Survey No.256 belonging to the Forest Department. The allegation is that the respondent/accused had constructed the toilet, hotel and the playground on the forest land by making encroachment. However, to measure the entire property of the Forest Department is the requirement of

law as consistently held by this Court. The burden of proof was on the appellant which was not discharged. However, the respondent has made encroachment and the same cannot be allowed to continue, but then the process to measure the land in the right perspective must be undertaken. That being so, I make the following order :-

Order

- A] Criminal Appeal No.303 of 2003 is dismissed.
- B] The appellant to measure both the lands and find out, if there is any encroachment, after issuing notice to the respondent and thereafter proceed accordingly.
- C] The appeal against appellant no.2-Amrut s/o Mahadeo Meshram, stands dismissed as abated.”

JUDGE