

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

Criminal Application (appr) No. 32 OF 2015
(In Cri. Revi. Appln. No. 215/13)

Madhukar s/o Sitayya Jakkulwar

v.

State of Maharashtra & anr.

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

Court's or Judge's orders

Mr. P.A. Gode Advocate for the Applicant/Res. no. 2.
Mr. Nitin Rode, APP, for respondent no. 1.

...

Coram : S.B. Shukre, J.

Date : 20th April, 2015.

Heard Shri Gode, learned counsel for respondent no. 2 and
learned APP for respondent no. 1.

2. Upon hearing learned counsel for respondent no. 2 and also
learned APP, the submission advanced on behalf of respondent no. 2
that no statement to the effect that the Forest Department was willing
to refund the amount as mentioned in the order dated 20.12.2014
together with interest as may be granted by this Court to the applicant
was made, is accepted. It is also accepted that what was in effect
stated by way of concession by the Forest Department was that it is

willing to refund the amount in question only simpliciter and nothing more. Therefore, the order dated 20.12.2014 deserves to be modified and it is modified by deleting the words “together with such interest as may be granted by this Court” appearing in line no. 7 and 8 of paragraph 2 on page 1, and which are underlined in red ink.

3. After deletion of reference to willingness of respondent no. 2 for making payment of interest on the amount in question, another issue is cropped up. It is seen from the record that seized teak wood has been sold by the concerned officers of Forest Department during pendency of criminal prosecution and that the Forest Department was duty bound to preserve the teak wood till the prosecution was over and orders as to its disposal were finally passed by the concerned Court. The teak wood had been given into custody of the Forest Department on supratnama which was subject to the condition that it shall not be disposed of by the Forest Department except on the orders issued in that behalf by the Court. Still, the officers of the Forest Department have disposed of teak wood by publicly auctioning which action clearly amounted to breach of orders of the criminal Court. At this stage, it is not necessary to go into the aspect of any intention to violate or disobey the order of the criminal Court as it is not under challenge in this criminal revision application. But, what needs to be considered is the impact that the unlawful action on the part of concerned officers of Forest Department has made on right in favour of the applicant herein. The applicant should not be made to suffer any loss for the unlawful action of the officers of the Forest Department and from this view point I am of the opinion that some cost or some penalty deserves to be fastened upon the Forest Department for its illegal action so that the applicant is provided some solace in the matter. Therefore, I find that the amount which would be refunded by the Forest Department must

carry with it interest from the date of sale till the date of payment and the rate at which this interest may be paid would be reasonably fixed to be at 6% per annum.

4. In the circumstances, the order dated 20.12.2014 would have to be further modified by giving a direction regarding payment with interest at 6% per annum from the date of sale till the date of payment, for the reasons stated in the earlier paragraphs. The reasons stated for payment of interest now shall form part of the order dated 20.12.2014 and the order dated 20.12.2014 shall be read along with the present order.

5. The application is partly allowed and disposed of accordingly.

Judge

/TA/