

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4134 OF 2015

Jaiprakash Kanhaiyalal Bhiwapurkar

-vs-

State of Maharashtra and others

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

Court's or Judge's Orders.

Mr. N.A.Padhye, counsel for the petitioner.
Mr. N.P. Mehta, AGP for the respondent Nos.1 to 3.

CORAM : SMT. VASANTI A. NAIK &
A. I. S. CHEEMA, JJ.

DATE : 14.09.2015.

By this petition, the petitioner challenges the orders of the Collector, Bhandara and the Chief Conservator of Forest, Nagpur, declining permission to the petitioner to fell the trees on the ground that the land of the petitioner falls within the wildlife sanctuary.

The petitioner claims to be the owner of Survey Nos.5, 6, 18, 19, 27 and 28 of Mouza Jogikheda, Tahsil Pauni, District Bhandara. The petitioner claims to be the class-I holder and further claims that he had planted thousand teak trees in the said survey numbers. The petitioner applied to the Tree Officer for permission to fell the teak trees vide an application dated 14/03/2012. The Tree Officer invited objections from various authorities and it was found from the information supplied by the R. F. O., Wildlife that the lands of the petitioner and the forest lands were overlapping. It was informed by the Chief Conservator of Forest to the Tree Officer that the lands of the petitioner were falling under the wildlife sanctuary. The petitioner filed an application before the Sub-Divisional Officer for permission to fell the trees, but the said application was rejected. So also, a subsequent appeal filed by the petitioner to the Chief Conservator of Forest, Nagpur was also

dismissed. The petitioner has impugned the orders of the authorities by the instant petition.

It would not be proper for this Court, in exercise of the writ jurisdiction to decide the issue whether the land of the petitioner falls within the wildlife sanctuary or does not fall within the same. A notification is issued under the provisions of Wildlife Protection Act dated 16/02/2015 that the land of the petitioner falls within the wildlife sanctuary and in the forest area. The petitioner has averred in the petition that the petitioner would avail appropriate remedy for challenging the notification dated 16/02/2015. Till the notification stands, it would be all the more improper, in exercise of the writ jurisdiction to hold that the land of the petitioner would not fall within the wildlife sanctuary. The petitioner can avail appropriate remedy for seeking a declaration that the land of the petitioner does not fall within the wildlife sanctuary. So also, as rightly averred in the writ petition, the petitioner can avail the appropriate remedy for challenging the notification dated 16/02/2015. In the circumstances of the case, it would not be proper to consider granting the relief in favour of the petitioner.

For the reasons aforesaid, the writ petition is dismissed with no order as to costs.

The points raised in the petition are kept open.

JUDGE

JUDGE