

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

CRP.No.334 of 2013

AGAINST THE JUDGMENT IN CMA 9/2010 of ADDL. DIST. COURT
(ADHOC)-II, KALPETTA DATED 10-12-2012.

REVISION PETITIONER/RESPONDENT:

STATE REPRESENTED BY THE DIVISIONAL FOREST OFFICER
WAYANAD(AUTHORIZED OFFICER) WAYANAD, KALPETTA

BY SRI.M.P. MADHAVANKUTTY, SPL. GOVT. PLEADER (FORESTS).

RESPONDENT/APPELLANT:

M.J ALAXANDER,
S/O.JOSEPH, MADUKUTHIYIL HOUSE, KUPPADI AMSOM
SULTHAN BATHERY, WAYANAD DISTRICT
PIN - 673 592.

BY ADV. SRI.MATHEW KURIAKOSE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
23-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

Civil Revision Petition No.334 OF 2013

Dated this the 23rd day of January, 2015.

O R D E R

This revision petition by the State can be disposed of on a very short ground. On the allegation that the petitioner had undertaken sawing of timber which belongs to the Government, confiscation proceedings were initiated. The order was challenged before the Additional District Court (Adhoc) II, Kalpetta in CMA No.9/2010.

2. The appellate court found that the property had been assigned in favour of one Jameela as per the provisions of the Kerala Forest (Prohibition of Felling of Trees Standing on Land Temporarily or Permanently Assigned) Rules 1995. The land was assigned to Jameela as per the relevant Rules and Rule 3 of the Rules referred to above mentions that if the deed of grant made states that trees are reserved in favour of the Government, those trees shall not be cut and removed except after following the procedure made mention of in the Rules.

3. The Authorized Officer, on the basis that the respondent who had sawn the logs must be deemed to have knowledge about the illegality committed by the person concerned tried to justify the confiscation. The District Court concerned, on the other hand, finding that there was no material to show that trees were reserved in favour of the Government to attract Rule 3 of the relevant Rules, allowed the appeal and confiscation proceedings was set aside. The lower appellate court also found that the term mentioned in Rule 3 is 'tree' and not 'timber' and even assuming that there is any offence with regard to cutting of the tree, appellant cannot be roped in.

4. Probably, there may be some substance in the said finding going by the definition of 'timber' and tree' in the Forest Act. But it is unnecessary to go into that aspect because as long as the authorised officer is not able to establish that trees were cut in violation of Section 3 of the Rules, no proceedings could have been initiated. Then it is too far fetched to impute to the petitioner that he must have known that the logs brought to him for sawing were illegally cut and removed.

5. After having heard the learned Special Government Pleader and also after having perused the records, this Court finds no grounds to interfere with the impugned order.

This petition is without merits and it is accordingly dismissed.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

// True Copy //

P.A. to Judge.