

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.29297 of 2016

ORDER:

1 This Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of mandamus declaring the action of the third respondent in passing the proceedings vide notices in Rc.No.4274/2016-P2, 4334/2016-P2 dated 23-07-2016 and Rc.No.4913/2016-P2 dated 16-08-2016 returning the proposals for tree felling permission granted by The Tahsildar, Tuni as illegal and arbitrary and consequently direct the third respondent to pass orders on the applications made by the petitioners afresh as per the procedure in vogue without insisting them to submit their applications on line and to make Security Deposit.

2 Heard Sri K. Jyothi Prasad, the learned counsel for the petitioners and the learned Assistant Government Pleader for Forests.

3 The case of the petitioners is that they have been carrying on timber business. During the course of their business, they used to purchase trees from private individuals. The Mandal Revenue Officer concerned will conduct enquiry to ascertain whether those trees belong to private parties or not and based on the enquiry the Mandal Revenue Officer will give certificate. Basing on the certificate issued by the Mandal Revenue Officer, the Forest Department used to issue orders permitting the petitioners to cut the trees, that too, after due verification by their officials. The Forest Department role is only to issue permit to the effect that the

wood, which is going to be sold, does not belong to the Forest Department and it belongs to private individuals.

4 It is the further case of the petitioner that recently the third respondent returned the proposal of the petitioners for tree felling permission quoting the G.O.Ms.No.58 Government of A.P. EFS & T Department, dated 08.06.2016 and directed the petitioners to follow the guidelines issued in the said G.O. and apply the tree felling permission through online. Hence the present Writ Petition.

5 The Government of Andhra Pradesh issued G.O.Ms.No.58 Environment, Forests, Science & Technology Department, dated 08.06.2016 stipulating certain instructions for simplification of process for Tree-felling permission to fell trees other than Red Sanders, Sandal Wood and Rose and in Scheduled areas of the State.

6 The predominant contention of the learned counsel for the petitioner is that G.O.Ms.No.58 relates to felling of trees that are essential for establishment of new industrial unit and that the said G.O. is not applicable to the private individuals / pattedars or the existing industries.

7 On the other hand, the learned Assistant Government Pleader, on instructions, submitted that the Principal Chief Conservator of Forests issued instructions vide Rc.No.12180/2015/FCA-4 (ii), dated 07.09.2016. The relevant portion of the said instructions reads as under:

“The Government vide their Memo under reference 3rd cited, have further clarified that the orders issued by the Government in G.O.Ms.No.58 EFS&T (Section-II) Dept. dated 08.06.2016 for simplification of process for

Tree Felling Permission under the provisions of relevant Acts and Rules are applicable only for the purpose of establishing new industry. The objection is to facilitate for Ease of Doing Business for establishment of new industries in industrial clusters. The industries are also required to obtain various other clearances including Environmental clearance. Therefore, organized industries that are subject to various checks and balances cannot be compared to individuals. Accordingly, the procedure in the G.O.Ms.No.58 EFS&T (Section-II) Dept. dated 08.06.2016 is not applicable to individuals or existing industries.”

8 A perusal of the above instructions clearly reveals that the procedure contemplated in the G.O.Ms.No.58 is not applicable to the petitioners who are private individuals. The learned Assistant Government Pleader, in all fairness, submitted that G.O.Ms.No.58 is applicable in case of establishment of new industry. Therefore, the third respondent is not justified in issuing the impugned proceedings and hence the impugned proceedings are liable to be set aside.

9 In the result, the Writ Petition is allowed setting aside the proceedings vide notices in Rc.No.4274/2016-P2, 4334/2016-P2 dated 23-07-2016 and Rc.No.4913/2016-P2 dated 16-08-2016 issued by the third respondent and the third respondent is hereby directed to accord permission to the petitioners for tree felling as granted by The Tahsildar, Tuni. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: September 15, 2016.

Kvsn