

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1183 of 2016

- =====
1. The State of Bihar, through the Principal Secretary, Environment & Forest Department, Government of Bihar, Patna.
 2. The Principal Chief Conservator of Forest, Bihar, 4th Floor Technology Bhawan, Bailey Road, Patna
 3. The Divisional Forest Officer, Patna Forest Division, Patna
 4. The Forester, Masaurhi-cum-Paliganj Range, Masaurhi, District- Patna
 5. The Police Sub-Inspector, Paliganj, District- Patna

.... Appellant/s

Versus

Bhubneshwar Mistry, son of Late Sukhdeo Mistry, resident of Mohalla Shantinagar, Paliganj, P.S. Paliganj, District- Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhinay Raj

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR

UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 30-10-2017

Re.: I. A. No. 4772 of 2016

I.A. No. 4772 of 2016 has been filed for condoning the delay of 210 days in filing the appeal.

In view of the submissions made by the learned counsel for the appellants, I.A. No. 4772 of 2016 is allowed and the delay in filing the appeal is condoned.

Seeking exception to order dated 31.07.2015 passed by the learned writ court in C.W.J.C. No. 7444 of 2015 directing return of the material seized from a Saw Mill, this appeal has been filed by the State Government. The learned Writ Court after taking



note of the provisions of Section 8 of the Bihar Saw Mill (Regulation) Act, 1990 and based on judgments of this Court reproduced in the order itself, so also the order dated 16.04.2013 passed in C.W.J.C. No. 4682 of 2013 (Shambhu Sharma Vs. The State of Bihar and others) has held that neither the Forester nor the Police Officer can assume power in breach of Section 8 of the Act to sell and seize the material from a Saw Mill, which has been held by the writ Court that this can be done by the statutory authority authorized in the manner in accordance with law. In doing so and in taking note of the aforesaid, the material has been directed to be released and a fresh proceeding be initiated in accordance with law.

We find no error in the aforesaid order passed by the Writ Court warranting reconsideration of the matter.

This appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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