

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 247 of 2012**

1. State of Chhattisgarh through the Forest Range Officer Forest Range Dantewada (Chhattisgarh)
2. Prescribed Authority & Sub Divisional Forest Officer Dantewada Forest Sub Division Dantewada (Chhattisgarh)

---- **Petitioners****Versus**

Smt. V. Jayanti Shastri W/o Shri V.P. Shastri aged about 44 years R/o Anwarabhata Dantewada Police Dantewada District South Bastar (Chhattisgarh)

---- **Respondent**

For Appellants/State : Shri UNS Deo, Government Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Order on Board****29/11/2017**

1. This is an application under Article 227 of the Constitution of India filed by the State challenging the decision rendered by the Court of Sessions in a revision under Section 52B of the Indian Forest Act, 1927; hereinafter referred to as the 'Act', as it applies to the State of Chhattisgarh by virtue of State amendment, made in 1983.
2. Heard the learned Government Advocate quite in *extensio* on the findings rendered by the Court of Sessions. Perused the records.
3. Section 52(3) of the Act authorises confiscation. Section 52A provides for appeal against an order of confiscation and Section 52B provides for revision before the Court of Sessions against order of the appellate authority. Sub-section (2) of Section 52B provides that the Court of Sessions may confirm, reverse or modify

any final order or an order of consequential nature passed by the appellate authority. Sub-section (4) of Section 52B enjoins that for entertaining, hearing and deciding a revision under this Section, the Court of Sessions shall, as far as may be, exercise the same powers and follow the same procedure as it exercises and follows while entertaining, hearing and deciding a revision under the Code of Criminal Procedure, 1973. Sub-section (5) of this Section provides that notwithstanding anything to the contrary contained in Code of Criminal Procedure, 1973, the order of the Court of Sessions passed under Section 52B shall be final and shall not be called in question before any Court. Bearing in mind, Sub-sections (4) and (5) of Section 52B of the Act, it is clear that while the revisional jurisdiction of the Court of Sessions, in the matter of considering a revision under Section 53B, is co-extensive with the sweep of powers under Section 401 of the CrPC, the finality of the revisional order is such that it does not call for interference except in exceptional situations where the said decision could be treated as palpably perverse or is wholly unavailable on the materials on record. Interference may be called for in cases where revisional authority has failed to exercise jurisdiction to the extent provided in sub-section (4) of Section 52B of the Act which has to be carried out, having regard to Section 401 CrPC as well.

4. Examining the materials on record, the findings rendered by the revisional authority in the case in hand cannot be treated as one that is unavailable on record. Nor there is any ground to hold that the reasoning process is unsustainable. This is all the more so because the facts of the case show that the vehicle in question and the timber were found in two different places and seized from two different locations. Without ignoring the case of the officials that the vehicle was carrying the contraband and did not stop in spite of being required, the substantial evidence on record including the oral evidence provided clear material for the Sessions Court to hold in favour of the revision petitioner before it.

That has led to the very impugned order.

5. For the aforesaid reasons, it cannot be held that this is a case where jurisdiction under Article 227 of the Constitution is to be extended at the instance of the State. This application therefore fails.
6. In the result, the petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE