

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(Cr.) No. 23 of 2015**

Thakur Prasad S/o Late Gola Prasad Parasram Aged About 60 Years
R/o Village Bisai Podi, P.S. & Post. Surajpur, Civil District. Surguja,
Revenue District Surajpur, C.G.

---- Petitioner**Versus**

1. Sub-Divisional Forest Officer S/o Cum- Authorized Officer, Surajpur, P.S. & Post. Surajpur, Civil District. Surguja, Revenue District. Surajpur, C.G.
2. State Of Chhattisgarh Throuth Ranger Of Forest, Surajpur, Ps & Post Surajpur, Civil & Revenue District Surajpur, Cg

---- Respondents

For the Petitioner : Ms. Priyanka Mehta, Advocate.
For the Respondent/ State : Shri Neeraj Sharma, Deputy G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.09.2017**

1. Heard.
2. This writ petition has been brought under Article 226 of the Constitution of India with a prayer to quash the orders passed by respondent No.1 – Sub-Divisional Forest Officer-Cum-Authorized Officer, confiscating the seized vehicle under the ownership of the petitioner in connection with the forest offence, which has been upheld by the Appellate Authority as well as by the Revisional Court.
3. It is submitted by counsel for the petitioner that the petitioner is the registered owner of the Tractor bearing registration No. C.G. 15AE 1624 and Trolley bearing registration No. C.G. 15AE 1265 and the same were seized on 12.7.2012 while transporting 33 number of Sal Wood logs by the Forest Officials. The driver of the vehicle could not produce any documents of the

valid transport. A forest offence was registered and the confiscation proceeding was initiated by respondent No.1. The order dated 12.7.2012 was passed for confiscating the seized vehicle. The appeal preferred by the petitioner was decided by the Appellate Authority- Conservator of Forest, Sarguja and by order dated 27.5.2013 the appeal was dismissed. Criminal Revision No. 78 of 2013 was preferred before the Learned Fourth Additional Sessions Judge, Ambikapur which was dismissed vide order dated 17.10.2014.

4. It is submitted by counsel for the petitioner that the finding has been recorded by respondent No.1, Appellate Authority and the Revisional Court that the wood that was transported on the tractor and trolley owned by the petitioner belonged to Sudan Ram and the wood was taken from the broken house of Sudan Ram. It is submitted that though there was no permit for transport a no objection certificate was granted by Up-Sarpanch of Gram Panchayat, Maheshpur for the transport of the wood obtained from dilapidated house of the Sudan Ram, there was no requirement of any transport permit for the above goods. As there has been a finding that the wood seized alongwith the Tractor and Trolley was private property, in that case Section 15-D of the Chhattisgarh Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969 (for short 'Adhiniyam, 1969') was not applicable and neither requirement of provision under Section 15-D of the Adhiniyam, 1969 was fulfilled before passing the order of confiscation. The petitioner has placed reliance on the judgment passed by this Court in the case of **Tirath Prasad Yadav vs. State of Chhattisgarh** reported in 2012(1) C.G.L.R.W. 466.

5. Learned State counsel has opposed the petition and the submissions

made on behalf of the petitioner. It is submitted that admittedly the petitioner or the driver of the vehicle was not in a possession of the document authorizing to transport the said wooden logs. Hence, there is no infirmity in the order passed by respondent No.1, Appellate Authority and the Revisional Court.

6. Heard counsel for both the parties and perused the documents on record.

7. Undoubtedly the wooden logs transported on the vehicle concerned belonged to one Sudan Ram and that was the building material which was extracted from his broken house. Hence, clearly it is a private property to which Section 15-D of the Adhiniyam, 1969 is not applicable. Further, Section 15-D of the Adhiniyam, 1969 makes it clear that any order of confiscation can be passed only after any competent court has passed the judgment of conviction against the offender for the offence concerned. As per the documents on record, there is no such order of conviction against the driver of the petitioner or the petitioner himself about being convicted of any forest offence, hence, the order passed by respondent No.1 which has been upheld by the Appellate Authority as well as Revisional Court is wrong and erroneous which needs to be interfered with and set aside. As a result of these observations, this petition is allowed and the orders passed by respondent No.1, the Appellate Authority as well as Revisional Court are hereby set aside. Respondents are directed to handover the possession of the seized vehicle to the petitioner immediately.

Sd/-

(Rajendra Chandra Singh Samant)
Judge