

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 4119 of 2003**

Rakesh Mittal, S/o Late Bihari Lal Mittal, aged about 34 years, Proprietor of Firm Bihari Lal Rakesh Kumar Saw Mill, Bada Bazar, Chirmiri, District Korla (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh through its Secretary, Forest Department, Raipur (C.G.)
2. Prescribed authority and Divisional Forest Officer, Korla Forest Division, Baikunthpur, District Korla (C.G.)
3. Appellate Authority & Conservator of Forest, Surguja Circle, Ambikapur (C.G.)
4. Range Officer, Forest Range, Chirmiri, District Korla, C.G.
5. Range Officer, Forest Range Baikunthpur, Distt. Korla (C.G.)

--- Respondents

For Petitioner : Shri A.K. Prasad, Advocate.
For Respondent/sState : Shri Ratan Pusty, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/07/2018

1. By way of this petition, the petitioner seeks to challenge the order dated 9.9.2003 by which learned Additional District Judge, Manendragarh, Distt. Korla has dismissed the miscellaneous appeal preferred by the petitioner under Section 12(4) of the Madhya Pradesh Kasshtha Chiran (Vinimay) Adhiniyam, 1984 as well as learned Additional Sessions Judge has rejected his revision preferred under Section 15(b) of the Madhya Pradesh Vanopaj (Vyapar Viniyaman) Adhiniyam, 1969.
2. I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

3. Firstly, I have to consider the appeal preferred under Section 12(4) of the M.P. Kashtha Chiran (Viniyaman) Adhiniyam, 1984 preferred by the petitioner, which has been rejected on the ground that sufficient opportunity has been granted to the petitioner to defend the case. The petitioner has raised the ground that he has not been afforded opportunity of hearing by supplying the relevant documents and also has not been given opportunity to cross-examine the departmental witnesses, which has not been considered by the learned Additional District Judge and only in one paragraph, appeal has been dismissed, holding that sufficient opportunity has been given to the petitioner and order of Prescribed Authority and Appellate Authority has been affirmed without dealing with the grounds raised by the petitioner.

4. The order confiscating the saw mill as well as the seized timber involves civil consequence, therefore, it ought to have been decided by the learned Additional District Judge by a reasoned and speaking order, as such, the order passed by the learned District Judge dismissing the appeal cannot be sustained for want of reasons for dismissal. It is accordingly, set aside.

5. Likewise, revision preferred under Section 15(b) of the Madhya Pradesh Vanopaj (Vyapar Viniyaman) Adhiniyam, 1969 has also been rejected assigning no reasons except holding that sufficient opportunity has been given and his furniture mart has been confiscated, it also involves civil consequences as each and every ground pressed by the petitioner has not been considered, it ought to have been dealt with separately. Merely setting out all the facts and, thereafter, holding that sufficient opportunity has been granted to petitioner while dismissing the revision is clearly impermissible in law, learned Additional Sessions Judge ought to have given sufficient reasons while dismissing the revision, which, in the opinion of this Court has not been given to the

petitioner, as such, order passed under Section 15(b) of the Madhya Pradesh Vanopaj (Vyapar Viniyaman) Adhiniyam, 1969 also cannot be sustained.

6. Accordingly, both the orders passed in appeal as well as revision are set aside. The matters are remitted to the District Judge/Additional District Judge for passing the reasoned and speaking order afresh after affording due opportunity of hearing to the petitioner in accordance with law.

7. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

D/-