

**HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

WRIT APPEAL No. 291 of 2019

JUDGMENT: *(per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)*

In compliance of the order dated 08.04.2019, the appellants have submitted a Panchanama, dated 08.04.2019, with regard to the inspection that was carried out in the premises of M/s.CNL Agri Tech. The Panchanama shall be taken on record.

According to the Panchanama dated 08.04.2019, at 3:05 p.m., Mr. K. Sarveshwar, Forest Range Officer, Choutuppal, and Mr. M. Venkataramulu, Deputy Range Officer, Choutuppal and Forest Beat Officers of Malkapur and Choutuppal, reached the premises of the said company, along with two panch witnesses, namely, Mr. Gundla Krishna and Mr. Yetuveeti Kiran Kumar. Upon entering the premises, they noticed that “*the company was using 3 HP and 12 HP motors in Mist chamber and Rip Saw, which contains 6” Saw, numbering 6. They also noticed that there are 5 Circular Saws, and Planeer Machine, which contains two motors of 5 HP and 3 HP. They also noticed that lot (sic) of sizes of Mango trees scattered here and there in the company. They also discovered that there are three motors of 5 HP, 1.5 HP and 1.5 HP in Finger Cutting Machine. The factory contained Finger Joiner Machine and Glue Spider Machine,*

which is being used with 1.5 HP Machine. In the Hot Press Machine, they are using two motors of 7.5 HP. The DD Saw Machine contains 3 HP motors and being used with 12” saw. They further claimed that on an earlier visit, the Forest Officials noticed that the company was using 14” Saw, but, on questioning, they removed 14” Saw and are using 12” Saw, and the Sanding Machine of 5 HP is being used’.

Along with the Panchanama, the statement, dated 08.04.2019, of one Mr. Cheraku Jangaiah has also been submitted. In the said statement, Mr. Jangaiah has admitted that on an earlier occasion i.e., on 26.03.2019, they were using 14” Saw, but, the same has now been replaced and fitted with 12” Saw in the said Machine.

The respondent has filed I.A.No.2 of 2019 before this Court, wherein the respondent has prayed that an Advocate Commissioner should be appointed, as the respondent continues to question the validity and veracity of the Panchanama mentioned hereinabove. According to the learned counsel for the respondent, the inspection has been carried out behind the back of the respondent, and the employees of the respondent have been pressurized to give wrong statements. Therefore, according to the learned counsel for the respondent, the Panchanama cannot be relied upon by this Court.

On the other hand, the learned counsel for the appellants submits that the inspection was carried out only on the directions of this Court. Thus, the Forest Officers are well aware that any report submitted by them would be subject to judicial scrutiny. Furthermore, the Forest Officers have no animosity with the respondent. Therefore, there is no reason why the Panchanama should be disbelieved.

Moreover, the definition of 'Wood Based Industry' includes the "Veneer Industries". According to the respondent, while filing an application for granting a license, it has declared itself as a "Veneer Industry". Further, according to the Telangana Wood Based Industries (Regulations) Rules, 2016 (for short 'the Rules'), no person is permitted to operate a Wood Based Industry, unless and until the person has a license from the authority concerned. According to the learned counsel, the respondent is running a Wood Based Industry as it admitted in its application itself that it is a "Veneer Industry". Furthermore, six round timbers have been discovered at the factory. According to the Panchanama, it does not fall within the proviso attached to Rule 3 of the Rules. Moreover, merely because the saws have been now replaced from 14" to 12", it would not make the impugned notice an illegal one. For, admittedly, at the time when the impugned seizure notice was issued to the respondent, it was

discovered that the company was using the saws of 14” length. In fact, its own employee has admitted that even earlier, they were using the saw of 14”.

Further, the learned counsel has relied upon certain observations made by the Hon’ble Supreme Court in its order dated 29/30.10.2002 in Writ Petition (Civil) No.202 of 1995, wherein the Hon’ble Supreme Court had clearly directed that “*no State or Union Territory shall permit any unlicensed sawmill or veneer industry to operate, unless and until such Wood Based Industry is granted a license by the authority concerned*”. The Hon’ble Supreme Court had also directed the Chief Secretary of each State to ensure that strict compliance of the said direction is carried out. Therefore, the learned counsel pleads that if the respondent is not prevented from running its industry, it would tantamount to committing contempt of the Hon’ble Supreme Court, as the direction issued by the Hon’ble Supreme Court would be flouted. It is under these circumstances that the learned counsel pleads that the learned Single Judge is not justified in concluding that the respondent falls within the proviso to Rule 3 of the Rules. Hence, the stay order granted by the learned Single Judge deserves to be set aside.

Lastly, since the Panchanama has already been prepared by the Forest Officers, the need to appoint an Advocate

Commissioner no longer exists. Hence, the learned counsel has opposed the interim application, I.A.No.2 of 2019, filed by the respondent.

Admittedly, the inspection has been carried out on 08.04.2019 only because of the direction issued by this Court. Thus, the Forest Officers were well aware that they are required to carry out the inspection only at the directions of this Court. Hence, it is very unlikely that the Forest Officers would illegal in carrying out the inspection of the respondent company, or incorrectly record the Panchanama.

Moreover, a bare perusal of the counter filed by the appellants/respondents before the learned Single Judge, and the Panchanama dated 08.04.2019 clearly reveal that the Forest Officers have stated that on the earlier inspection, they have discovered that 14” saws were used, but, on 08.04.2019, they discovered that 12” saws have been used. This clearly shows that in the Panchanama, the Forest Officers have stated exactly what they saw. If the Forest Officers were motivated to state falsehood, they were free to claim that they still discovered 14” saws. However, the Forest Officers have not done so. This is another pointer to the fact that the Panchanama is a true one.

Since the respondent is desperately trying to apply for a license, the respondent is free to make any allegation of violation

of its rights against any Forest Officer. But the presumption of law is that inspection would be carried out in accordance with law. This presumption has been strengthened by the fact that the Panchanama is prepared by the Forest Officers only upon a direction issued by this Court. Thus, the possibility that the Forest Officers would have taken any illegal step is extremely small, and almost least possible. Hence, there is no reason to doubt the veracity and validity of the Panchanama, dated 08.04.2019.

Therefore, the prayer of the respondent that an Advocate Commissioner should be appointed by this Court is hereby rejected.

After the rejection of the I.A., both the counsel have prayed for the final disposal of the writ appeal.

The learned counsel for the appellants/respondents submits that certain conclusions have been drawn by the learned Single Judge which presently could not have been drawn, as they are subject to full and final arguments to be placed before the learned Single Judge. Therefore, the learned Single Judge was not justified in granting the main relief at the interim stage.

On the other hand, the learned counsel for the respondent submits that since the legality of the notice was challenged, the learned Single Judge was justified in granting a stay order in favour of the respondent.

Heard the learned counsel for the parties.

It is, indeed, trite to state that in a catena of the cases, the Hon'ble Supreme Court has clearly observed that mere issuance of a notice does not violate the fundamental right or the civil right of a person. For, issuance of notice is merely to give the concerned party an opportunity of hearing by the concerned authority. Therefore, the Apex Court has repeatedly held that when a notice is challenged before the Constitutional Court, the Constitutional Court should refrain from interfering with such a notice.

Moreover, it is the settled principle of law that at the interim stage, the final relief cannot be granted.

The learned Single Judge *prima facie* cannot observe that the respondent company falls within the proviso to Rule 3 of the Rules. However, such an observation could not be made even on the *prima facie* basis without appreciating all the evidence led by both the sides.

Since the Hon'ble Supreme Court has already issued crystal clear directions to the States to ensure that unlicensed Sawmills or Veneer Industries are not permitted to operate, unless they seek license under the concerned rules, and considering the fact that according to the respondent itself, it is running a Veneer Industry, as is apparent from its application for granting the

license, the learned Single Judge is not justified in concluding that the respondent falls within the proviso to Rule 3 of the Rules. Hence, the learned Single Judge was not justified in staying the operation of the impugned seizure notice.

For the reasons stated above, this appeal is hereby allowed. The order dated 05.03.2019 qua the respondent, namely, M/s.CNL Agri Tech, is set aside.

Pending miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, ACJ

Date: 24.04.2019

A. RAJASHEKER REDDY, J

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