

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 4608 of 2007**

- State Of Chhattisgarh Through Its Collector, Raigarh Chhattisgrh

---- Petitioner**Versus**

- Mahaveer Prasad Agrawal S/o. Shri Jagatram Agrawal, R/o. Pathalgaon, District. Bilaspur C.G

---- Respondent

For Petitioner/State	:	Shri Alok Bakshi, Additional Adv. General
For Respondent	:	Shri Saleem Kazi, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/01/2020**

This petition under Article 227 of the Constitution of India is preferred against order dated 28/03/2007 passed by the Additional Sessions Judge, Bilaspur in criminal case No.60/2003 by which, the learned Revisional Court has set aside the order passed by the Conservator of Forest in appeal, in favour of the vehicle owner and against the State.

2. The respondent's vehicle was seized on 06/09/1997 by forest officer. The vehicle / truck was found loaded with forest produce / Teak Wood. Criminal case was registered and confiscation proceedings were also initiated under Section 52 of the Indian Forest Act, 1927 which culminated in order of confiscation of forest produce as well as vehicle passed by the Confiscation Authority on 02/06/2000. Aggrieved by the said order, an appeal was preferred before the Conservator of Forest / appellate authority. The appeal was also dismissed on 31/01/2003. Aggrieved by the said order, the owner / respondent preferred Criminal Revision

before the Sessions Judge. Learned Sessions Judge allowed the Revision holding that a serious and material illegality and irregularity had crept in the proceedings in as much as the appellate authority, without perusing original records but acting only on the basis of photo copy of the records of proceedings and order, decided the appeal. The Revisional Court also noted that the proceedings conducted by Confiscation Authority were also quite irregular as the enquiry officer did not even sign the records of statement of witness – Phoolchand and even statement of other witness – Sunil Kumar was not allowed to be subjected to cross-examination.

3. The sole and pointed submission of learned Additional Advocate General is that even if it were to be accepted that certain illegality and irregularity was committed in drawing confiscation proceedings by the confiscation authority at the first instance and decision of appeal by the appellate authority without perusing the original records of confiscation proceedings, instead of putting to end to the proceedings, the Revisional Court was obliged under the law to remand the case either to the appellate authority for proper consideration after summoning original records or remand the case to the confiscation authority to draw proper proceedings and pass appropriate order in accordance with law.

4. On the other hand, learned counsel for the respondent would submit that present is a case of the year 1997 and 22 years have elapsed and even the vehicle is completely rotten and cannot be otherwise put to any use as on the date. Further submission is that order of remand and drawal of fresh proceedings will be fruitless.

5. I have heard learned counsel for the parties.

6. Though there is considerable force in the submission of learned State counsel that the reasons assigned by learned Revisional Court to hold the order of confiscation and order passed in appeal bad in law, the Revisional Authority ought to

have remanded the case for drawing fresh proceedings of confiscation or send back the matter to the Appellate Authority for proper consideration after summoning original records, at this stage, when the vehicle is said to have been seized way back in the year 1997 i.e. more than 22 years before and the submission of learned counsel for the respondent that the vehicle, otherwise, is completely rotten and is of no use, I am not inclined to remand the matter at this stage, as no fruitful purpose would be served to draw the proceedings of confiscation of the movable property, which is of no use and has turned completely rotten after more than 22 years. Therefore, this petition is dismissed. It is, however, made clear that dismissal of this petition shall have no effect and impact on the criminal proceedings, if any, initiated against the respondent and brought to conclusion by way of acquittal or conviction.

Sd/-

(Manindra Mohan Shrivastava)
Judge