

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL PUBLIC INTEREST LITIGATION NO. 3 OF 2019

Shri Vijaysingh S/o Gajrajsingh Chauhan,
..VS..

The State of Maharashtra, through its Principal Secretary, Department of Home, Mantralaya,
Mumbai and Ors.,

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A. B. Moon, Advocate for the petitioner.
Shri A. S. Fulzele, Addl.P.P. for the respondent Nos.1 to 8.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : 12.03.2021

Heard Shri A. B. Moon, learned counsel for
the petitioner and Shri A. S. Fulzele, learned Addl. P.P.
for the respondents.

2. On the last date, we have already made it clear that appropriate action having been taken against the offender, the grievance of the petitioner to this extent has been satisfied. We have also observed that the only question that had remained to be addressed was in relation to recovery of the loss caused due to burning of forest. We have then put a question to the learned Addl.P.P., if there was any other provision in any law which would enable the officers of the forest or any other competent Authority appointed for the purpose to initiate independent proceedings against those found

liable for causing such loss in order to recover the loss from them.

3. Now, the respondent No.3 has filed an additional affidavit and the affidavit states that formation of any Committee for assessment of the loss may not be required as the loss caused in this case is already estimated. The affidavit further states that the question about recovery of the loss and damages from the accused persons can be taken care of by the trial Court which is seized of the matter or even this Court may issue appropriate direction in the matter. There is nothing on record which would enable us to say that no assessment of loss has been carried out so far. Therefore, we accept this statement that the loss which has been caused in the present case has already been assessed. Once it is seen that the assessment and quantification of the loss is over, the only question that would remain, as rightly submitted by the respondent No.3, would be about recovery of the loss and damages from those found to be responsible for causing of the loss or in other words the accused persons, if found guilty. This aspect of the matter can, therefore, be appropriately considered by the trial Court and we would like to leave this issue to be adjudicated upon by the learned trial Court. However, in doing so, the trial Court would have to bear in mind the principles governing the field and which are to be found in the judgment of Supreme Court delivered in the case of *Destruction of Public and Private Properties, in re Vs.*

State of Andhara Pradesh and Ors., (2009) 5 SCC 212.

4. The petition is, thus, disposed of in the above terms.

JUDGE

JUDGE

Kirtak