IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 7741 OF 2022

Indramani Kanhar .... ***Petitioner***

Mr. Rashmi Kanta Acharya, Advocate

-versus-

The Regional Chief Conservator of Forests, Berhampur and another .... ***Opp. Parties***

Mr. Suvashish Pattnaik,
Additional Government Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER

Order No. **21.12.2022**

10. 1. This matter is taken up through hybrid mode.

2. The Petitioner in this writ petition seeks to assail the order dated 18th October, 2021 (Annexure-9) passed by the Regional Chief Conservator of Forests, Berhampur Circle rejecting the Timber Transit Permit Appeal filed by him.

3. Mr. Acharya, learned counsel for the Petitioner submits that vide letter dated 27th February, 2018 (Annexure-3 series), the Divisional Forest Officer, Boudh Forest Division observing that the Petitioner has already deposited the passing list authorized the Assistant Conservator of Forests, Boudh Forest Division to issue necessary T.T. permit in favour of the applicant on receipt of proper requisition in Form-II after proper verification of the documents etc. observing all departmental rules and procedures within 15th April, 2018. Before hand, the Divisional Forest Officer, Boudh Forest Division vide his letter dated 29th April, 2017

intimated the Tahasildar, Harabhanga for joint verification. As there was a dispute with regard to kissam of land, the Tahasildar, Harabhanga was asked to clarify the same and vide letter No.1139 dated 17th May, 2017, the Tahasildar, Harabhanga intimated that Plot No.145 under Khata No.7/1 of mouza Kiramaska from which the Petitioner seeks for removal of forest produce is recorded as Atta Eka kissam of land. The Petitioner also relies upon the R.O.R. in respect of the said land which discloses that the land is Atta Eka kissam of land. However, no T.T. permit has been issued in favour of the Petitioner. Since no action was taken on the application filed by the Petitioner for grant of T.T. permit, he preferred W.P.(C) No.21321 of 2011, but, in the meantime, the application for grant of T.T. permit has been rejected by the Divisional Forest Officer, Boudh Forest Division on 2nd July, 2018 as at Annexure-6. Hence, the Petitioner prayed for withdrawal of the said writ petition, which was dismissed as withdrawn on 25th April, 2018. Assailing the order of rejection of grant of T.T. permit, the Petitioner filed an appeal before the Regional Chief Conservator of Forest, Berhampur-Opposite Party No.1 on 25th July, 2018. But no action on the same was taken by the Regional Chief Conservator of Forest for disposal of the appeal. Hence, the Petitioner had approached this Court in W.P.(C) No.19170 of 2021, which was disposed of vide order dated 19th July, 2021 as at Annexure-8 with a direction to the Regional Chief Conservator of Forests, Berhampur to register the appeal filed by the Petitioner and make an endeavour to dispose of the appeal in accordance with law as expeditiously as possible preferably within a period of four

months from the date of production of certified copy of the said order. Accordingly, the impugned order under Annexure-9 has been passed.

4. Mr. Acharya, learned counsel for the Petitioner further submits that the appellate authority did not apply his mind to the facts and circumstances of the case and only taking note of the fact that earlier application for grant of T.T. permit was dismissed, he dismissed the appeal. The impugned order under Annexure-9 is a cryptic and non-speaking one. Hence, he prays for setting aside the impugned order under Annexure-9 and to direct the Regional Chief Conservator of Forest, Berhampur to consider the appeal afresh giving opportunity of hearing to the parties concerned and dispose of the same by a reasoned order.

5. Mr. Pattnaik, learned Additional Government Advocate referring to the affidavit of Divisional Forest Officer, Boudh Forest Division submits that the Petitioner had earlier filed an application for grant of T.T. permit in the year, 2006, which was rejected by the Divisional Forest Officer, Boudh Forest Division on 3rd February, 2007 (Annexure-E/1). Assailing the same, the Petitioner preferred an appeal before the Regional Chief Conservator of Forest, Berhampur. However, the said appeal was dismissed on 30th June, 2011 and it was communicated to the Petitioner vide Memo No.2792 dated 30th June, 2011 (Annexure-F/1). Assailing the order under Annexure-F/1, the Petitioner filed W.P.(C) No.21321 of 2011, which was disposed of as withdrawn on 25th April, 2018. As such, a fresh application for grant of T.T. permit is not maintainable, more particularly when the land was recorded

as Bada Jungle at the time of consideration of the application in the year, 2006. Hence, he submits that neither the competent authority nor the appellate authority has committed any error in rejecting the application for grant of T.T. permit.

6. Considering the rival contentions of the parties and on perusal of the record, this Court finds that the land in question, i.e. Plot No.145, is recorded in the name of the Petitioner and kissam of land is Atta Eka. The Tahasildar, Harabhanga in his letter dated 17th May, 2017 addressed to the Divisional Forest Officer, Boudh Forest Division has intimated that the land in question is recorded under Atta Eka kissam. The ground on which the application for grant of T.T. permit in the year, 2006 was rejected is no more existing. Hence, the application of the Petitioner for grant of T.T. permit should have been considered on its own merit on the materials available on record giving him an opportunity of hearing and to produce documents. This Court while disposing of W.P.(C) No. 19170 of 2021 directed the Regional Chief Conservator of Forest, Berhampur to register the appeal and to consider the same in accordance with law. Thus, the Regional Chief Conservator of Forest, Berhampur was required to apply his mind and pass a reasoned order. That having not been done, this Court sets aside the impugned order under Annexure-9 and remits the matter back to the Regional Chief Conservator of Forest, Berhampur Circle-Opposite Party No.1 to consider the appeal filed by the Petitioner giving him an opportunity of hearing and to produce documents and dispose of the same by passing a reasoned order thereon.

7. It is made clear that this Court has not expressed any opinion on the merits of the case of the Petitioner.

With the aforesaid observation and direction, this writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks

HIGH COURT
सत्यमेव जयते
ORISSA