

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

WRIT PETITION NO.3724/2021

Smt. Janabai wd/o Vithoba Sonule (since deceased) through her Legal Representatives - Devidas Vithoba Sonule (since deceased through LRs)- Ghanshyam Devidas Sonule and ors. **.. Petitioners**

Versus

State of Maharashtra through the Secretary, Revenue and Forest Department, Mantralaya, Mumbai-400 032 and four ors. **..Respondents**

Shri Madhav K. Kulkarni, Advocate for petitioners.

Ms. H. N. Jaipurkar, Assistant Government Pleader for respondents

CORAM :- A.S.CHANDURKAR AND SMT. M.S.JAWALKAR, JJ.

DATE :- MARCH 21, 2022.

P.C.

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The petitioners have sought permission for felling of tress that were standing on at old Khasra No.236 (New Survey No.192/2) and old Khasra No.94/1 (New Survey No.56/2). That application was rejected by the Collector on 22.11.2007. The said order was sought to be reviewed but the review application was dismissed. These orders were challenged by the petitioners by filing Writ Petition No.3423/2008. By the judgment dated 05.05.2017 the proceedings were remanded to the Collector to decide the application afresh. Thereafter on 03.08.2019 the Collector allowed the application preferred by the petitioners and granted permission to cut the trees by issuing directions to the Forest Officer in that regard.

3. It appears that on 16.03.2020 the respondent no.2 observed that without prior approval of the Central Government such permission could not be granted. Being aggrieved, the petitioners have challenged the said communication dated 16.03.2020 by filing the present writ petition.

4. The respondent no.5 has filed affidavit on record and has stated in paragraph 7 as under :

‘7. It is most respectfully submitted that the Answering Respondent had decided the application filed by the petitioners as per the directions issued by the Hon’ble High Court by order dated 05.05.2017 passed in Writ Petition No.3423/2008. It is further submitted that the order dated 03.08.2019 passed by the Answering Respondent is in accordance with the above stated laws, rules and directions issued by the State Government from time to time. Hence the stand taken by communication dated 16.03.2020 issued by the respondent no.2 regarding prior approval of the Central Government is not applicable in the present matter.’

It is thus the stand of the respondent no.5 that prior approval of the Central Government is not necessary for granting permission for felling the trees in question.

5. Since the impugned communication has been issued advising the Collector to obtain prior approval of the Central Government and the Collector has now opined that such prior approval is not necessary under the Forest (Conservation) Act, 1980, it would be necessary for the respondent no.2 re-consider the matter pursuant to the directions issued in the order dated 03.08.2019.

6. Accordingly, the writ petition is disposed of by passing the following order:

(i) The respondent no.2 shall in terms of the order dated 03.08.2019 issued by the Collector and after considering the averments made in the paragraph 7 of the affidavit filed by the Collector referred to hereinabove, take appropriate steps in the matter of grant of permission to the petitioners to cut the forest trees.

(ii) Necessary steps be taken within a period of four weeks from the production of copy of this order before the respondent no.2.

With these directions, the writ petition is disposed of. Rule accordingly. No costs.