

18.06.2024
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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURIDICITION**

CO 72 of 2024

Laila Begum

-VS-

The State of West Bengal & Ors.

Mr. Prajwal Gurung,

... for the petitioner

Mr. Hirak Barman,
Mr. Nabankur Pal

... for the State

Affidavit of service filed on behalf of the petitioner is taken on record.

This civil revisional application is filed under Article 227 of the Constitution of India challenging the order dated 6th October, 2023 of learned District Judge, Darjeeling in Misc. Appeal No. 10 of 2023 under Section 59D of the Indian Forest Act, 1927 dismissing the appeal of the petitioner.

Mr. Prajwal Gurung, learned advocate for the petitioner submits that the miscellaneous appeal being Misc. Appeal no. 10 of 2023 was preferred before the learned District Judge, Darjeeling against the order of learned Additional Chief Judicial Magistrate, Siliguri rejecting the prayer of the

petitioner for release of seized vehicle. The appeal was dismissed on 6th October, 2023 by the learned District Judge, Darjeeling of it being not maintainable on the ground that the said appeal is premature since no case of confiscation was made out by the appellant. However, the Divisional Forest Officer, Kurseong Division on a prior date i.e. 29th June, 2023 has already passed order for confiscation of the seized tractor. He concedes that the application made before the learned Additional Chief Judicial Magistrate, Siliguri for release of the seized vehicle was not proper since the order of confiscation was not made by him. He seeks liberty to challenge the confiscation order under Section 59(3) of the Indian Forest Act passed by the Divisional Forest Officer, Kurseong Division by way of an appeal before the learned District Judge.

Mr. Hirak Barman, learned advocate for the State submits that the miscellaneous appeal filed before the learned District Judge, Darjeeling challenging the order of learned Additional Chief Judicial Magistrate, Siliguri is misconceived. Be that as it may, in his usual fairness, he submits that liberty may be granted to the petitioner to file appeal before learned District Judge, Darjeeling challenging the order of confiscation passed by the Divisional Forest Officer, Kurseong Division.

The fact divulged from the materials on record is that the petitioner filed an application before the learned Additional Chief Judicial Magistrate, Siliguri for release of the seized vehicle whereas the confiscation of the vehicle has been made by the Divisional Forest Officer, Kurseong Division. Learned Additional Chief Judicial Magistrate, Siliguri turned down the prayer of the petitioner for release of the vehicle with observation that it lacks jurisdiction. The said order of learned Additional Chief Judicial Magistrate, Siliguri was challenged in miscellaneous appeal being Misc. Appeal No. 10 of 2023 before the learned District Judge, Darjeeling. The learned District Judge dismissed the said Misc. appeal being not maintainable observing that the appeal is premature since no case of confiscation was made out by the appellant in appeal. It is not in dispute that the order of confiscation has been passed on 29th June, 2023 by the Divisional Forest Officer, Kurseong Division in respect of river bed materials and tractor seized as per Section 59A(3) of the Indian Forest Act, 1927.

In view of the above, the civil revisional application being **C.O. 72 of 2024** is disposed of granting liberty to the petitioner to file appeal before the appropriate Court against the order of

confiscation passed by the Divisional Forest Officer,
Kurseong Division in accordance with law.

All the connected applications, if any, stand
disposed of.

Interim order, if any, stands vacated.

Urgent photostat copy of this order, if applied
for, be given to the parties upon compliance of
necessary legal formalities.

(**Bivas Pattanayak, J.**)