

08.07.2025

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Ct.No.7
sdas

WPA 21582 of 2022

Ganesh Chandra Maity
Vs.
State of West Bengal & Ors.

Mr. R. Mahata
.....for the petitioner

Mr. Amal Kumar Sen, Id. AGP
Ms. Aslima Das (Sil)
..... for the State

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

The present writ petition has been filed praying
for the issuance of a writ of mandamus directing the
concerned respondents to grant and/or renew the license
to operate a sawmill under the name and style of Messrs
Radha Rani Timber Works in favor of the petitioner.

Briefly stated, the facts leading to the institution
of the present writ petition are that the petitioner operates
a sawmill under the name and style of “Lakshmi Narayan
Saw Mill” situated on Plot Nos. 1612 and 1613, Mouza
Sankoa, J.L. No. 398, Old Khatian No. 358, New Khatian
No. 115, Police Station Kharagpur (Local), District
Midnapore (West). Meanwhile, one Shyamapada Santra
operated another sawmill under the name and style of
Messrs Radha Rani Timber Works from the adjacent plots.

The petitioner, by virtue of a registered instrument, claims to have purchased the licence granted to Mr. Santra to operate the sawmill known as Messrs Radha Rani Timber Works. Subsequently, the petitioner applied for the renewal of the licence for the said sawmill. However, the licence was renewed in the name of the former owner, Mr. Shyamapada Santra.

After the expiry of the said license, the petitioner submitted an application to the Divisional Officer, praying for the renewal of the license in the petitioner's favour. However, despite receipt of the application, no effective action was taken by the authorities. This continued inaction compelled the petitioner to file a suit, registered as Title Suit No. 150 of 2011, seeking a declaration and injunction.

However, the suit was dismissed by judgment and decree dated 22nd March, 2017. Aggrieved by those judgment and decree, the petitioner filed an appeal registered as Title Appeal No. 34 of 2017. The appeal was contested and ultimately allowed. The judgment and decree of the learned Trial Court were set aside, and the suit was decreed, declaring that the plaintiff is entitled to obtain the license in respect of M/s. Radha Rani Timber Works. It was further held that the defendants/respondents Nos. 1 and 2 have no right or authority to deny the renewal of the license in the name of the plaintiff for M/s. Radha Rani Timber Works. However,

the authority has not acted in accordance with the judgment and decree passed by the Appellate Court. Faced with this situation, the petitioner has been constrained to file the present writ petition.

Mr. Mahata, learned Advocate representing the petitioner, submits that the respondents have not challenged the judgment and decree passed by the learned Appellate Court before any higher forum. Consequently, the said judgment and decree have attained finality. The respondents may therefore be directed to act in accordance with the judgment and decree passed on appeal and to grant and/or renew the license of Messrs Radha Rani Timber Works in the name of the present petitioner.

Mr. Sen, learned Additional Government Pleader, strongly opposes the contentions advanced on behalf of the petitioner. He submits that the petitioner unilaterally amalgamated both sawmills without obtaining prior permission from the Forest Department. He further contends that the license granted in favour of Messrs Radha Rani Timber Works is not transferable in terms of Rule 6(3)(b) of the West Bengal Forest (Establishment and Regulation of Saw Mill and Other Wood-Based Industries) Rules, 1982 (hereinafter referred to as the "1982 Rules").

He further submits that, to obtain a licence from the competent authority, an application must be submitted in the prescribed Form No. II, in accordance with Rule 4(1) of the 1982 Rules. In the present case, the petitioner has not

submitted any such application. Additionally, he contends that the petitioner does not possess a valid license to operate the Lakshmi Narayan Saw Mill and has been operating both sawmills solely on the basis of the license granted in favour of Messrs Radha Rani Timber Works.

Mr. Sen further contends that, having purportedly unilaterally amalgamated both sawmills, the petitioner acted in violation of the mandatory requirement to obtain prior approval from the competent authority. According to him, such amalgamation is therefore impermissible. Consequently, he submits that the petitioner's prayer for grant and/or renewal of the license in respect of Messrs Radha Rani Timber Works, in place of the erstwhile owner, cannot be entertained. The written instruction submitted by Mr. Sen is taken on record.

Admittedly, the plaintiff filed a suit impleading the State of West Bengal and the Divisional Forest Officer as defendants. As noted earlier, the suit was dismissed. Thereafter, the judgment and decree dismissing the suit were challenged by way of an appeal, registered as Title Appeal No. 34 of 2017. The appeal was contested and ultimately allowed, resulting in the suit being decreed. A decree of declaration was passed, which is necessary to quote in order to elucidate the issue. The relevant portion of the decree is as follows:

“It is hereby declared that the plaintiff is entitled to license in his name in respect of Radharani Timber Works and defendant/respondent nos. 1 and 2 have no right or authority to deny to renew/grant license

in the name of the plaintiff in respect of Radharani Timber Works.”

Admittedly, the order passed by the First Appellate Court has not been assailed in any forum. Therefore, the respondents, including the Divisional Forest Officer and the State of West Bengal, have allowed the order of the First Appellate Court to attain finality. It is a well-settled principle that even a wrong or erroneous order passed by a competent authority, unless set aside or modified by a superior court, is binding upon the parties to the proceedings.

Needless to state, the State and the Divisional Forest Officer got sufficient opportunity to raise all relevant issues before the Appellate Court. It must therefore be presumed that, after duly considering the contentions advanced by the Divisional Forest Officer and the State of West Bengal, the First Appellate Court, being a competent Court of Law, has passed the judgment and decree.

Now, the State and the Divisional Forest Officer are estopped from raising these issues, and it would be inappropriate to allow them to re-agitate the same at this stage. Furthermore, any order passed on such issues would contravene the principles of res judicata and constructive res judicata, and would effectively nullify the decree passed by a competent Court of Law.

Therefore, although the submission advanced by Mr. Sen appears to be justified, it cannot be entertained at this stage in the present writ petition.

In light of the facts and circumstances of this case, the writ petition is disposed of, directing the concerned respondents, including the Divisional Forest Officer, to act strictly in accordance with the judgment and decree passed by the learned Appellate Court in Title Appeal No. 34 of 2017.

It is further ordered that the authority shall give effect to the said judgment and decree and shall act upon it within a period of eight weeks from the date of receipt of this order.

There shall be no order as to costs.

It is clarified that since this Court has directed the respondents to act in terms of the judgment and decree passed in Title Appeal no. 34 of 2017, the Writ Court has no further occasion to deal with any other issue.

(Partha Sarathi Chatterjee, J.)