

**2703
2025**

THURSDAY

Court : CB-28
Item : DL-03
Bench : SINGLE
Matter : WPA
Status : DISMISSED
ID : 266306
AR : NANDY

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 26233 OF 2024

DOST MOHAMMAD
represented by attorney
SUBODH KUMAR DAS
VS.

THE STATE OF WEST BENGAL & ORS.

MR. MUKTESWAR MAITY, ADVOCATE
MS. MANIKA SARKAR, ADVOCATE

.....for the Petitioner

MR. PARTHA PRATIM ROY, ADVOCATE
MR. SAMRAT CHAKRABORTY, ADVOCATE

.....for the Respondent No. 7

MR. K.J. YUSUF, ADVOCATE
MR. PARIKSHIT GOWAMI, ADVOCATE

.....for the State

1. The report bearing Memo No. 3770/15 M&L dated 27.12.2024 prepared by the Divisional Forest Officer, Nadia-Murshidabad Division, handed up by the learned Advocate for the State, is taken on record.
2. The petitioner is aggrieved by the laxity on the part of the respondent in taking action against the private-respondent (Respondent No. 7) who has been instrumental in felling of Mango trees on the land owned by the Respondent No. 7.
3. Learned Advocate appearing for the petitioner invites the attention of this Court to a representation dated 27.09.2024 made to the Forest Range Officer, Jangipur Circle and the representation dated 30.09.2024 made to the Block Land and Land Reforms Officer, Samserganj to submit that despite the petitioner approaching the said State Authorities, none of them has taken action against the Respondent No. 7, who is guilty of felling trees.

4. The learned Advocate appearing for the petitioner invites the attention of this Court to the provisions of Section 4 and 5(1) of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 (hereafter “the said Act of 2006”) and submits that the Respondent No. 7 was obliged in law to obtain permission from the competent authority before felling trees and in case, he has felled trees without seeking such permission, action should be taken against the Respondent No. 7 by the statutory authority.
5. Learned Advocate appearing for the Respondent No. 7, draws the attention of this Court to Section 5(2) of the said Act of 2006 and submits that the said provision overrides the provisions of Section 5(1) of the said Act of 2006 inasmuch as it begins with a non obstante clause. It is submitted that in terms of Section 5(2) of the said Act of 2006, no permission is required, if felling of tree is undertaken for not more than three trees at a time in rural area. He further refers to the schedule appended to the said Act of 2006 and submits that the said schedule enumerates different trees for felling which permission would be required. It is submitted that on the petitioner’s own rendition of his case, the tree allegedly fell by the private-respondents is Mango Tree and as such the same falls beyond the schedule of trees which require mandatory permission for felling.
6. Learned Advocate for the State concurs with the submission made by the learned Advocate for the Respondent No. 7 and submits that since the allegation pertains to felling of Mango Trees, which do not fall under the said schedule

appended to the said Act of 2006, the authorities have rightly not taken cognizance of the allegations levelled by the petitioner.

7. Having considered the submissions of the parties and having perused the material-on-record, this Court is of the view that the petitioner's representation lacks merit. The case run by the petitioner in the writ petition as well as in the representation made by him before the Respondent Authorities is that the Respondent No. 7 has cut down a big mango tree. Such allegation, even if accepted at face value does not render the Respondent No. 7 liable for any action under the said Act of 2006. Since the number of the tree allegedly felled is only one i.e. less than three, therefore the rigour of Section 5(1) of the said Act of 2006 is not attracted. Yet again since mango tree does not find its name in the schedule of trees that require mandatory permission for their felling, no case is made out of taking action under the provision of the said Act of 2006 for felling a mango tree. In such view of the matter, action has rightly not been taken by the authority on the basis of the petitioner's representation. The relief prayed in the writ-petition cannot be granted.
8. **WPA 26233 of 2024** thus stands **dismissed**. No costs.

(OM NARAYAN RAI, J.)

