



W.A.No.21 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

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CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.A.No.21 of 2021

1.M/s.Satya Exports,
No.54/29/1 3rd Main Road,
Raja Annamalaipuram,
Chennai 600 028
Rep. by its Managing Partner,
Mr.K.Mahalingam (Died)

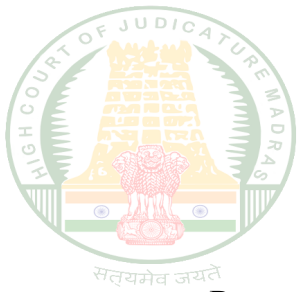
2.Mrs.Sumati Mahalingam,
W/o K.Mahalingam,
Present Managing Partner
No.54/29/1 3rd Main Road,
Raja Annamalaipuram,
Chennai 600 028
(Memo recorded vide Court order dated 15.7.2025)

... Appellant

VS

1.The District Officer,
District Forest Officer,
Chengalput Division,
Kancheepuram.

2.The Principal Sessions Court
Chengalput
Acting as Tribunal under the Forest Act.



W.A.No.21 of 2021

... Respondents

Prayer : Appeal filed under Clause 15 of Letters Patent against the Order passed in WP.No.22990 of 2010 dated 05.06.2020 on the file of this Court.

For Appellant : Mr.B.Kumar, Senior Counsel
For Mr.G.Mani Prabu

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by
Mr.T.Seenivasan (for R1)
Special Government Pleader (Forest)

J U D G M E N T

Dr. ANITA SUMANTH..J

The Writ Petitioner is the appellant. It is a partnership firm and on the demise of the Managing Partner who filed the Writ Petition, memo dated 15.07.2025 has been filed seeking substitution of the name of the wife of the partner in the cause title. The said memo has been ordered on 15.07.2025.

2. The appellant holds a licence for possession of Sandalwood, issued under the Tamil Nadu Sandalwood Possession Rules, 1970 (in short 'Rules'). There was an inspection in the premises of the appellant on 29.10.1994, in the course of which, the District Forest Officer/R1 found

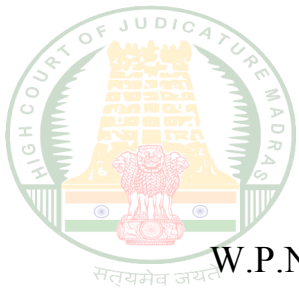


W.A.No.21 of 2021

that as against 12,454 Kgs of Sandalwood and 1557 Kgs of Red Sanders, for which license had been issued, only 6084 Kgs. of Sandalwood and 563 Kgs of Red Sanders remained in the premises. On 06.12.1993, an explanation was called for with regard to the shortage of 6370 Kgs. of Sandalwood and 563 Kgs of Red Sanders.

3. Challenging the show cause notice, a Writ Petition in W.P.No.2921 of 1994 had been filed, wherein the appellant has also sought a direction for renewal of the Sandalwood possession licence. There was an averment therein that the shortage was on account of theft and that a complaint had been filed in the Thoraipakkam Police Station. However, the Inspector of Police, Thoraipakkam Police Station vide letter dated 20.03.1994 informed the Forest Ranger of the Madras Headquarters Range that no complaint has been received from the appellant. Hence, that Writ Petition came to be dismissed and the authorities were directed to proceed as per law.

4. Pursuant to the same, an opportunity was again granted to the appellant and since no credible explanation had been put forth for the shortfall, an order of confiscation had been passed on 05.09.2001. The said confiscation order had been set aside vide order dated 22.09.2006 in



W.A.No.21 of 2021

W.P.No.24255 of 2006 on the ground that no show cause notice had been issued prior to confiscation.

5. A Writ Appeal in W.A.No.1407 of 2006 had been filed, wherein the appellant prayed that it be permitted to seek release of the goods on furnishing of bank guarantee. The Writ Appeal came to be closed on 13.11.2006 permitting the appellant to seek such release if it was so entitled in law. Ultimately, the request of the petitioner for release came to be rejected by the authorities.

6. Parallely, show cause notices were issued and after receipt of explanations, an order of confiscation came to be passed by the authorities on 25.01.2008. As against that order of confiscation, the appellant had filed an appeal under Section 49-D of the Tamil Nadu Forest Act, 1882 (in short 'Act') before the Principal Sessions Judge, Chenglput/Tribunal under the Act, in CrI.A.No.111 of 2008. Section 49-D(2) of the Act states that the order of the Sessions Judge shall be final and shall not be questioned in any Court of law.

7. The appellant challenged the same by way of a Writ Petition under Article 226 of the Constitution of India, in W.P.No.22990 of 2010, impugned in this Writ Appeal. There does not appear to have been any



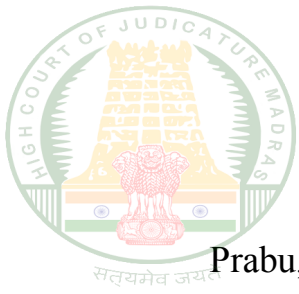
W.A.No.21 of 2021

challenge to the maintainability of the Writ Petition and hence, the Writ Petition was disposed on merits. Even before us, there is no challenge on the maintainability of the Writ Petition.

8. The learned Judge has dismissed the Writ Petition noting that certain documents had been produced before the Court asserting that the documents were private assets of the appellant and hence there ought not to have been any seizure of the same. The documents filed were certificate of origin, export way permit, possession licence and notice issued by the District Forest Officer, among others. The Court eschewed those documents holding that they had not been produced before the authorities including the Sessions Court and hence, were inadmissible. That apart, the Court was also of the view that as none of those documents explained the shortfall, they would be of no relevance in the matter.

9. Referring to various provisions of the Act, the Court concluded that there had been no justification for the shortfall and that apart, the submissions of the appellant that the shortfall was on account of the theft had been found to be untrue. The order of confiscation passed by the Sessions Court was thus confirmed.

10. Mr.B.Kumar, learned Senior Counsel appearing for Mr.G.Mani



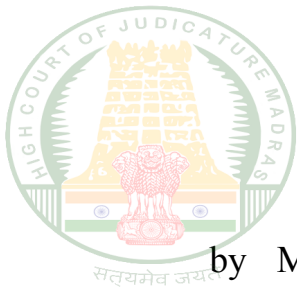
W.A.No.21 of 2021

Prabu, learned counsel on record for the appellant would reiterate the submissions made before the authorities. He would firstly assert that there is a distinction between the forest produce or goods that belonged to the Government, and those that constitute private assets.

11. In the instant case, the Sandalwood in respect of which the appellant held a possession licence, had been purchased by it in an auction in Kerala and the wood thus constituted a private asset. The seizure and confiscation of such goods is thus fundamentally opposed to the Scheme of the Act and the statutory provisions. Being private property, the appellant was wholly entitled to deal with the goods as it thought fit and hence the impugned order could not be sustained in law.

12. Secondly, Mr.Kumar would take us through the impugned order itself, which, according to him, is wholly cryptic and non-speaking, indicating non-application of mind. The officer has, in the impugned order, merely referred to the first order of confiscation which had, in fact, been set aside in a Writ Petition and in the absence of any other justification for the seizure and confiscation, such order cannot be sustained.

13. Mr.J.Ravindran, learned Additional Advocate General assisted



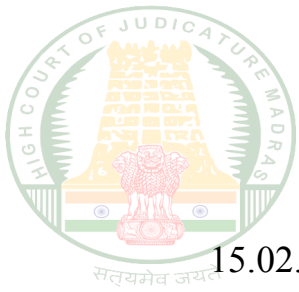
W.A.No.21 of 2021

by Mr.T.Seenivasan, learned Special Government Pleader (Forest) appearing for the District Forest Officer would support the order of both the Writ Court as well as the Sessions Court. First of all, they would deny that the goods constitute private property. He would then draw support from the statutory provisions to state that the shortfall in the Sandalwood constitutes an offence, liable to be dealt with under the appropriate provisions of the Act, in the absence of any valid explanation tendered by the individual.

14. Taking us through the order of the Sessions Judge and the Writ Court, they would point out that the explanation of the appellant had been disproved at both levels and hence there was no justification for intervention at this stage.

15. We have heard both learned Senior Counsel and have also perused the material papers.

16. The appellant was, earlier, in possession of a licence issued under the Rules for possession of Sandalwood. The licence is renewable every financial year, as can be seen from Rule 3, which stipulates that applications for renewal shall be made 30 days before the expiry of the existing licence. The licence produced for our perusal is dated



15.02.1991. It was therefore valid for a period of one year and no licence had been produced for the period beyond the same.

17. The conditions accompanying the licence are as follows:

‘CONDITIONS.

1. *The licence is granted subject to all provisions of the Tamil Nadu Sandalwood Possession Rules, 1970.*
2. *A stockist storing the Sandalwood and its bye-products (obtain by manufacture or conversion) including Sandalwood oil, smaller billets, Sandalwood powder and dust, toilet article or scented sticks should furnish to the District Forest Officer with full particulars of the place of storage together with a certified sketch of the premises. The premises should be distinguishable by a notice board conspicuously displayed. Any change of place of storage should be notified.*
3. *The dealer or stockist should maintain a stock register showing receipts and issues of Sandalwood and all its bye-products including oil at the premises.*
4. *A true extract from the stock register shall be substituted to the Forest Utilisation Officer every financial year by the 15th April, of the following year or before renewal of the licence when it has been issued for part of the year.*
5. *The stock register and the stock shall be open for inspection by any Forest Officer not below the rank of Forester at any time. Whenever there is contravention of any of the provision of the licence, any inspecting officer not below the rank of a Forest Ranger may remove such account or stock of Sandalwood on both and the animals, vehicles, vessels, or any other conveyance actually used in that connection and thereafter take authorise the taking of all measures for securing the production of a stocks of Sandalwood, vehicles and the like seized, in a Court and for their safe custody ending such production.*
6. *In exercising the power of entry and search under*



WEB COPY



W.A.No.21 of 2021

sub-Rule of Rule 4 of the Tamil Nadu Sandalwood Possession Rules, due regard shall be paid by the authority making such entry and search to the social and religious customs of the occupants of the premises to be entered upon and searched and the premises be entered after sunrise and before sunset.

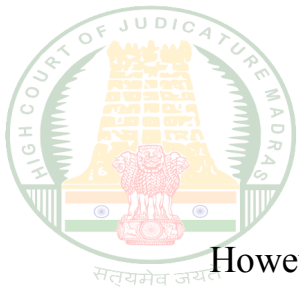
7. *When the original copy of the licence is lost by the licence a duplicate copy thereof shall be issued by the Forest Utilisation Officer after verification of payment of a fee of Rs.50/- (Rupees Fifty only).*

8. *Movement of Sandalwood from and to the licenced premises shall be covered by the Madras Sandalwood Transit Rules 1967.*

9. *Whenever infringes any of the provisions of these rules shall be punished with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees.*

*Forest Utilisation Officer,
Madras.*

18. The inspection took place on 29.10.1994 at 11.30 a.m. At that time, the appellant was, admittedly, not in possession of a valid licence and in such circumstances, the appellant was bound to have tendered a valid explanation for the Sandalwood that it had purchased in the auction and any shortfall in the quantity thereof. In the course of inspection, the District Forest Officer had found a deficit in the quantity of Sandalwood and Red Sanders, to the extent of 6,370 and 563 Kgs. respectively. Such deficit could only have been explained by producing necessary permits for transit of the timber under the Tamil Nadu Timber Transit Rules, 1968.



W.A.No.21 of 2021

However, forms were never produced in the course of inspection.

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19. R1 thus concluded, prima facie, that the Sandalwood and Red Sanders had been disposed clandestinely. In any event the remaining in respect of which there was no valid licence for possession, were liable to be confiscated under Sections 35 and 41 of the Act. An explanation had been called for, which had been duly submitted by the appellant. The appellant took the argument that the Sandalwood and Red Sanders were not Scheduled timber belonging to the Government.

20. The Schedule to the Act stipulates six kinds of wood of which Sandalwood is at S.No.4. As to whether the Sandalwood belonged to the Government would depend on whether the appellant was the holder of a valid licence for possession. In this case, since the licence had expired in 1992, the Scheduled woods in its possession do not constitute a private asset of the appellant and it would vest in the Government.

21. The second objection raised is that no notice has been given prior to passing the impugned order. This argument is not pursued before us and we find from the records that sufficient opportunity has been afforded to the appellant.

22. Thirdly, the appellant argues that there was no confiscation



W.A.No.21 of 2021

envisaged under the Act but only penalty of conviction and that the offence under Sections 36A and 41 of the Act/Rule 4 of the Rules/Rule 9 of the Tamil Nadu Timber Transit Rules, 1968 had not been proved by the prosecution. This is the mainstay of its contention that we will advert to in detail, shortly.

23. Overruling the submissions, an order came to be passed on 25.01.2008, adverse to the appellant. It may be recalled that the Division Bench of this Court in W.A.No.1407 of 2006 dated 13.01.2006 had stated that the appellant can seek release of the goods against bank guarantee, if law permitted. Under order dated 25.01.2008 that request comes to be rejected unambiguously, since the wood found in the possession of the appellant had been unaccounted and no evidence had been produced for transit of the balance. Hence, the Officer has stated that the confiscated goods cannot be returned on furnishing of bank guarantee.

24. Vide order of even date, i.e., 25.01.2008, the objections filed by the appellant in regard to confiscation came to be rejected. It is true that that order could have been worded better and fleshed out with some reasoning. However, we find that this defect has been remedied by the subsequent order passed by the Sessions Court and hence the inadequacies



W.A.No.21 of 2021

in order dated 25.01.2008 passed by the District Forest Officer do not detain us. An appeal filed by the appellant as against the order of confiscation which ultimately came to be rejected by the Principal Sessions Judge, Chengalpattu.

25. One more aspect of the matter that we must refer to, relates to a private complaint filed by the District Forest Officer that came to be disposed vide order passed on 28.05.2003 in Calender Case No.76 of 1995. Though we have specifically sought a copy of the complaint, it has not been produced before us. However, a perusal of order dated 28.05.2003 would show that the private complaint had been filed for punishing the appellant for possession of Scheduled wood belonging to the Government and for illegal transportation of the same. The appellant came to be acquitted, since the District Forest Officer did not pursue the matter.

26. The District Munsif-cum-Judicial Magistrate, Alandur records that PW1 Sivagnanam had been examined on 20.06.1996 and there had been long periods of adjournment. In between no evidence had been let in and there was no appearance by the complainant, despite repeated summons. The matter had been pending since 1995 despite several adjournments.



W.A.No.21 of 2021

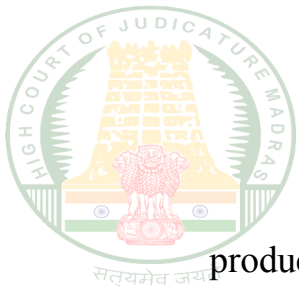
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27. The Court finds that the accused had been constantly appearing before the Court and hence it would not appropriate to keep the matter pending any longer. It was for these reasons that the accused had been acquitted. The appellant has relied on this acquittal pointing out that once the accused had been acquitted, confiscation cannot be sustained by the respondents. We disagree for reasons that we have set out in detail in paragraphs 36 to 41 infra.

28. Coming to the order passed on 06.08.2010 by the Principal Sessions Judge, Chengalpattu, it is a detailed order which records that the appellant had applied for renewal for possession of licence for the year 1993-94. The renewal was belated, and, in any event not granted, on account of the inspection and detection of shortfall.

29. In the absence of any proper documentation or explanation, the Criminal Appeal came to be dismissed. The Writ Court, referring to the relevant provisions of the Act and Rules, has also categorically recorded that no material had been produced as evidence by the appellant to justify the shortfall of, or legitimate transportation of the Sandalwood in its possession.

30. We find, incidentally, that those documents that had been

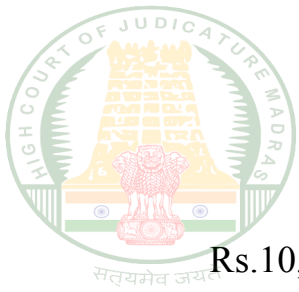


W.A.No.21 of 2021

produced before the Writ Court but had not been admitted, as additional evidence, have yet again been placed before us as part of the typed set, even without a supporting affidavit. This is wholly inappropriate. However, in light of our conclusion in this order, we do not pursue this matter any further.

31. Coming to the merits of the matter, the Scheme of the Act is two-pronged. Under Chapter V, the provisions relating to '*Control of timber in transit*' have been dealt with. These provisions run from Section 35, being '*Power to make rules to transit of Timber*' to Section 36, being '*Penalties for breach of rules made under Sections 35 and 35A*'. Section 35-B provides for '*Penalties for breach of rules made under Section 35, 35A*'.

32. The Tamil Nadu Sandalwood Possession Rules, 1970 have been issued in terms of Section 35-B. Those Rules provide for the manner for maintainance of stock registers, accounts and the stock itself. It also provides for issuance of licence and renewal thereof. The conditions that accompany the licence have been extracted earlier and condition 9 is important, in that, it provides for punishment by imprisonment for a term which may extend to one year and with fine which may extend to



W.A.No.21 of 2021

Rs.10,000/-.

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33. The private complaint filed by the District Forest Officer is in pursuance of condition 9 under the licence. It is that private complaint that has been unsuccessful, leading to acquittal of the appellant. That is on the one hand.

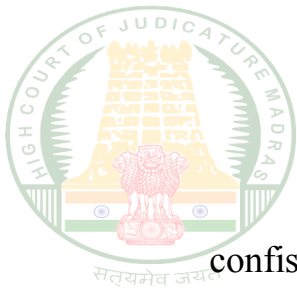
34. Chapter VII dealing with penalties and procedure, runs from Section 41 to Section 56-E. The provisions that are relevant for the purpose of the present Writ Appeal are extracted below:-

Section 36 -C:

“Power to cancel or suspend licence:- The District Forest Officer may cancel or suspend any licence granted under this Chapter if it appears to him, after giving the holder thereof an opportunity of being heard, that the licensee has contravened, or failed to comply with, any of the provisions of this Act or the rules made there under or any of the terms or conditions of the licence.”

35. The violation of condition 9 of the licence per the Rules contemplates punishment of imprisonment and/or fine. This aspect of the matter stands addressed by the private complaint that has been filed by the District Forest Officer resulting in an acquittal by the District Munsif-cum-Judicial Magistrate on 28.05.2003.

36. The second and simultaneous limb of action is as regards



confiscation and seizure as per Section 41 of the Act that reads as follows:-

41. Seizure of property liable to confiscation:- (1)

When there is reason to believe that a forest offence has been committed in respect of any timber or forest produce, such timber or produce, together with all tools, ropes, chains, boats, [vehicles] and cattle used in committing any such offence, may be seized by a Forest Officer or Police Officer.

(2) Any Forest Officer or Police Officer may, if he has reason to believe that a vehicle has been, or is being used for the transport of any scheduled timber in respect of which there is reason to believe that a forest offence has been or is being committed, require the driver or the other person in charge of such vehicle to stop the vehicle and cause to remain stationary as long as may be reasonably necessary for examination of the contents in the vehicle and inspection of all records relating to the scheduled timber and in possession of such driver or other person including of the vehicle or any other person in the vehicle.

(3) Every Officer seizing any property under this section shall place on such property or the receptacle (if any) in which it is contained a mark indicating that the same has been so seized and shall as soon as may be.

Provided that, when the timber or forest produce with respect to which such offence is believed to have been committed is the property of the [Central or the State Government] and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, [a report of the circumstances of case to his official superior].

(a) where the offence on account of which the seizure has been made is in respect of the scheduled



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W.A.No.21 of 2021

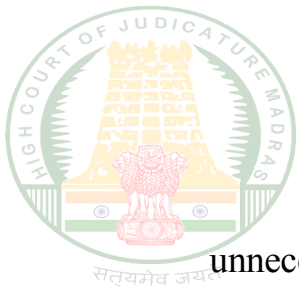
timer which is the property of the Government or in respect of which the Government have any interest, to the concerned authorised officer under section 49-A; and
(b) in other cases, to the magistrate having jurisdiction to try the offence on account of which the seizure has been made.

37. The argument of the appellant is that Section 41 is itself not applicable to it as Section 41(3)(a) deals only with seizure and confiscation of ‘*scheduled wood*’ ‘*belonging to the Government*’. However, this argument is misplaced in light of the scheme of Section 41 itself.

38. Section 41(1) deals with seizure and confiscation of ‘*any wood*’ which would include *scheduled wood* either belonging to a licence holder or that vests in the Government. This omnibus coverage is also reflected in Section 41(3) which consists of two clauses, (a) dealing with ‘*goods belonging to the Government*’ and (b) dealing with ‘*in other cases*’.

39. The case of the appellant falls within clause (b) of Section 41(3). Thus, seizure and confiscation is well taken care of and contemplated in cases of wrongful possession and dealing of scheduled woods, that do not belong to the Government.

40. In the present case, in fact, this distinction becomes



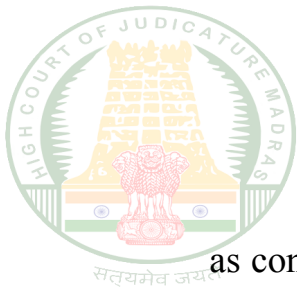
W.A.No.21 of 2021

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unnecessary, as the licence of the appellant has not been renewed beyond 1992. Even as per the affidavit filed by the petitioner in the Writ Petition dated Nil, October, 2010, the petitioner had applied for renewal of licence only in the year 1994. The Rules stipulate that the application shall be made '*30 days before the expiry of the existing licence*'. The licence in the present case is dated 15.02.1991 and expires on 14.02.1992 and hence the application for the renewal, if any, ought to have been filed 30 days prior to the date of expiry, which, admittedly, not been done.

41. Hence, possession of the scheduled Sandalwood beyond the licence period is itself illegal possession. In a way one could say that possession of sandalwood beyond the licence period is illegal and as a consequence, such wood would legitimately vests in the Government which becomes the rightful owner. In addition, the appellant has also been in possession of Red Sanders for which no licence has been produced and which has also been seized and confiscated. Hence on both counts the seizure and confiscation is found to be in tune with the scheme of the Act.

42. The order of the Sessions Judge as confirmed by the Writ Court have taken note of all relevant factors as we have noticed and reiterated above, and we find no flaw therein. The conclusions of the Sessions Judge



W.A.No.21 of 2021

as confirmed by the Writ Court on 05.06.2020 are hence perfectly in order
and we concur with the same.

43. This Writ Appeal is dismissed with no order as to costs.

[A.S.M., J] [N.S., J]
21.07.2025

Index:Yes
Speaking Order
Neutral Citation:Yes
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W.A.No.21 of 2021

W.A.No.21 of 2021

21.07.2025