

Prembai Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jun-26-2012

Appellant : Prembai

Respondent : The State of Madhya Pradesh

Judgement :

1 Criminal Revision No.1036/11 and Criminal Revision No.1038/11 26.06.2012.

Shri D.K.Tripathi, Advocate for the petitioners. Shri Ramesh Kushwaha, Panel Lawyer for State.

Learned PL appearing for State submits that SDO (Forest). Sehore could not appear due to ailment of his wife.

Learned counsel for petitioners submits that despite opportunity, SDO (Forest) is not appearing.

Heard finally with the consent of learned counsel for parties.

The petitions are directed as against judgment dated 17.03.11, passed by JMFC, Sehore on 17.3.11 in Criminal Case No.224/07 with respect to petitioner Nand Kishore of Criminal Revision No.1038/11, and Criminal Case No.225/07 with respect to petitioner Prembai of Criminal Revision No.1036/11 by which teak wood has been ordered to be confiscated even in the case of acquittal of petitioners. 1.342 Ghan Mtr. of teak wood has been found in possession of

petitioner Nand Kishore and .866 Ghan Mtr.of teak wood was found in possession of petitioner Prembai .

Learned counsel for petitioners submits that property be given on Supurdnama to the respective petitioners till the decision of Forest Department as forest authorities are carrying on the proceedings of confiscation and learned JMFC has no authority to confiscate the property in question.

He 2 submits that learned JMFC could only try the offence but cannot direct confiscation of property.

The procedure of confiscation has been prescribed in Section 15 of MP Vanopaj (Vyapar Vinimay) Adhiniyam, 1969.

He also furnished the document to the effect that confiscation proceedings are going on before Competent Authority/ SDO (Forest).Sehore for which notices have been given to petitioners.By perusing Section 15 of the aforesaid Adhiniyam, it is clear that JMFC can try the case, but cannot order for confiscation .

Order of confiscation can be made by some competent authority of forest department and if order of confiscation is there, then appeal could lie before Conservator of Forest and further revision before the Sessions Court.

Against judgment of confiscation passed by JMFC, petitioner Prembai has filed Criminal Appeal No.87/11 and petitioner Nandkishore has filed Criminal Appeal No.86/11 which have been dismissed by 2 nd Addl.Sessions Judge, Sehore and confiscation of property was held good.

As the proceedings before Competent Authority are going on, so, order for Supurdnama cannot be made.

But looking to the circumstances of the case, the judgments of JMFC confirmed in appeals are hereby set aside and it is directed that petitioners shall take part in the confiscation 3 proceedings going on before the SDO (Forest).Sehore.

SDO (Forest).Sehore is directed to conclude the proceedings within a period of 90 days from the date of production of certified copy of this order.

With the above directions, the petitions stand disposed of.

(M.A.Siddiqui) Judge.

Jk.

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