

Phool Singh Ahirwar Vs. Chief Conservator of Forest

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Court : Madhya Pradesh

Decided On : Feb-22-2013

Appellant : Phool Singh Ahirwar

Respondent : Chief Conservator of Forest

Advocate for Pet/Ap. : Shri. Satish Shrivastava

Judgement :

1 W.P.No.919/2013 22.2.2013 Shri Satish Shrivastava, learned counsel for the petitioner.

Shri Sanjeev Kumar Singh, learned Panel Lawyer for the respondents.

Petitioner is a owner of tractor and trolley bearing No.04 AH 107.and MP 04AH 0994.

The tractor and trolley was confiscated and seized as it was found committing forest offence.

Challenging the order of confiscation passed by the competent authority, appellate authority and the revisional authority exercising powers under Section 52 and 54 of the Indian Forest Act 1927 (M.P.Amendment) this writ petition has been filed.

Shri Satish Shrivastava, learned counsel for the petitioner argued that the tractor in question was never used for committing any offence, petitioner owner was not

aware of the offence being committed and as in illegal manner the action is taken, he seeks for interference into the matter.

On going through the record it is seen that on 6.1.2010 in forest beat compartment PF 15.a JBC Machine and the tractor and trolley in question was found.

The JBC machine was found extracting certain material from the forest area and near the JBC machine, the tractor and trolley was present.

Certain sand (Murram) was found in the trolley and a heap of murram was found lying near the trolley.

On the basis of the same the JBC machine, tractor and trolley were seized, 2 Panchnama was prepared, evidence of parties recorded and it was found that tractor and trolley was being used for illegal extraction of Murram from the forest area for its transportation.

Accordingly finding forest offence being committed proceedings for confiscation were held, order passed for confiscation and the appeal and revision having been dismissed, this writ petition has been filed.

Even though Shri Satish Shrivastava, tried to emphasized that the vehicle in question was not being used for committing any offence, he has not been prosecuted in criminal case and further contending that the driver has taken the vehicle without his consent, interference is sought for.

Shri Sanjeev Kumar Singh, learned Panel Lawyer refuted the aforesaid and took me through the findings recorded by the revisional Court namely FiRs. Additional Session Judge, Bhopal.

In para 3, 4 and 7 of the order, he took me through the statement of witnesses and argued that a concurrent finding has been recorded by the competent authority, appellate authority and revisional authority wherein the use of tractor and trolley for commission of offence is established and as nothing is brought to the notice of this Court to show that findings which are concurrent in nature are perverse.

It is argued by him that no interference be made.

I have heard learned counsel for the parties and perused the record.

From the perusal of the record it is seen 3 that proceedings have been held and based on the statement of various witnesses recorded, the findings have been arrived at by the competent authority.

The witnesses examined are Shri N.D.Sharma, Divisional Forest Officer and Member of the Flying Scord, Shri S.K.Singh the Range Officer, Shri Mohan Lal Dwivedi, Forest Ranger, Raise Khan, Arif Mohd., Deepak Jain all Forest Rangers and Forest Guard Shri Ramesh S/o Lal Singh resident of the area, Shri Harisingh Vishwakarma, Ex Sarpanch and various other defence witnesses and documents.

After scrutinizing the statement of witnesses and analyzing the documents, the finding recorded is that in the tractor and trolley murram was also found scattered in the area, it was also found that in an unauthorized manner vehicle had entered in the forest area and therefore, finding the vehicle to be used for committing the offence, impugned action is taken.

Action is taken based on the evidence and material available on record.

Nothing is brought to the notice of this Court on the basis of which finding recorded concurrent in nature by all the three authorities can be termed as perverse and unsustainable.

When the matter was placed before the FiRs. Additional Sessions Judge, Bhopal as contained in Annexure P/1 dated 5.11.2012 also shows that the authority has reappreciated the entire material and affirmed the finding.

Once finding of fact in this regard is affirmed by all the three authorities and nothing is brought to the notice of this Court to hold that the 4 finding is perverse or illegal finding, I see no ground to interfere.

Accordingly finding no ground for interference, this petition is dismissed.

(RAJENDRA MENON) JUDGE Mrs.mishra

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