

Woodman Industries and ors. Vs. State of Bihar and ors.

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Court : Patna

Decided On : Oct-04-1999

Judge : Sachchidanand Jha and Gurusharan Sharma, JJ.

Acts : [Indian Forest Act, 1927](#) - Sections 2, 2(4), 2(6), 41, 42 and 52

Appeal No. : Crl. Writ Journ. Case Nos. 313, 357 and 3321 of 1995

Appellant : Woodman Industries and ors.

Respondent : State of Bihar and ors.

Advocate for Def. : S.D. Yadav, Govt. Adv. and Nadim Seraj, JC to Govt. Adv.

Advocate for Pet/Ap. : P.K. Shahi, Rajesh Kumar and Rajesh Prasad Choudhary, Adv.

Disposition : Petition dismissed

Judgement :

1. The question raised in these three writ petitions being the same they have been heard together and are disposed of by this common judgment. The question is whether 'vener' is a forest produce within the meaning of the [Indian Forest Act, 1927](#) (in short, 'the Act'), so as to make the provisions of the Act applicable to it and confer jurisdiction upon the Forest officials to seize and confiscate the goods under the Act.

2. The representative facts may be noticed from the writ petition in Cr.W.J.C. No. 313/95. Petitioner No. 1 of the case is a registered partnership firm, while the other petitioners are said to be related to the holder of the power of attorney on behalf of the firm or owner of the vehicle, its Khalasi and driver. On 19-4-95 the vehicle, a truck bearing registration No. BRF 6941 laden with veer, was intercepted at zero mile post at Araria by the officials of the Forest Department. They demanded the papers with respect to the goods which were not shown. On suspicion the truck along with veneer was seized and a prosecution report alleging commission of offences under Sections 41 and 42 of the Act was filed before the Chief Judicial Magistrate, Araria. The seizure was also reported to the Divisional Forest Officer (Extension Division), Purnea. Application was filed before the CJM for release of the truck as well as the goods on 2-5-95. On the ground that the confiscation proceeding under Section 52 of the Act (Bihar Amendment) had been initiated, the CJM rejected the prayer on 8-5-95. On 18-5-95 the petitioners moved this Court in the present writ petition seeking release of the seized truck as well as the goods kept thereon and for quashing of the confiscation proceeding registered as Confiscation Case No. 1/95. By an interim order passed on 1-6-95 this Court directed the Divisional Forest Officer to release the truck on security. However, before the order could reach the authority, he passed the final order of confiscation of the vehicle and the goods on 5-6-95. Another interim order was passed by this Court on 10-7-95 to the effect that the vehicle as well as the seized veneer shall not be auction sold. On 23-8-95 the writ petition was admitted for hearing by a Division Bench.

3. Shri P.K. Shahi, learned counsel for the petitioners, submitted that veneer has not been specified as 'forest produce' under Section 2(4) of the Act and, therefore, it cannot be called forest produce as such and subjected to seizure etc. under the Act. He pointed out that veneer may be a bye-product of timber but it is a different product altogether which comes into existence as a result of mechanical process in a factory. It loses its original identity and it assumes the character of a different goods altogether having a definite marketable identity distinct from its original identity as a forest produce. In support of the contention he relied on an unreported judgment of Gauhati High Court in batch of cases entitled North Cachar Timber Products and Ors. v. State of Assam and ors.

4. Shri S. D. Yadav, learned Government Advocate, appearing for the respondents, submitted that veneer would fall within the ambit of the definition of 'timber' under Section 2(6) of the Act and, therefore, must be called forest produce under Section 2(4). He relied on this Court in *Smt. Chandrawati Devi v. The State of Bihar*, (1992) 1 Pat LJR 247.

5. At this stage it would be useful to quote Clauses (4) and (6) of Section 2 of the Act, so far as relevant, as hereunder:--

(4) 'forest produce' includes--

(a) the following whether found in, or brought from, a forest or not, that is to Say:-

timber, charcoal, caouthouc, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, (kuth) and myrabolams, and

(b)...

(6) 'timber' includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not;

6. It appears that Section 2(4) of the Act has been couched in the widest possible terms. Firstly, the use of the term 'includes' suggests that the description of forest produce is not exhaustive. There may be many more items which though not mentioned therein may still be forest produce. It is settled law that the word 'includes' is generally used as word of extension, and when used in an interpretation clause it seeks to enlarge the meaning of the word or phrase occurring in the body of the statutes. Secondly, as if this was not sufficient, the legislature has used the words 'whether... or not' removes any doubt whatsoever in this regard as to the scope and amplitude of the term. A Division Bench of this Court in case of *Shanker Traders v. State of Bihar* (1997) 2 Pat LJR 24 : AIR 1998 Pat 68 had occasion to consider the provisions of Section 2(4) of the Act in the context of the controversy as to whether the authorities of the Forest Department are competent to intercept the movement of Khair wood in the guise of Nepali khair wood. This Court noticed a decision of the Orissa High Court in *Kasi Prasad Sahu v. State of Orissa* AIR 1963 Orissa 24, and held that the use of the words 'or

not' suggests that the goods of the description given in the section would be forest produce whether they are found in the forest or not, or whether they are brought from a forest or not.

7. From the definition of 'timber' in Section 2(6) of the Act it is clear that 'timber' not only includes trees which have fallen or have been felled but also such wood which has been fashioned out for any purpose. Therefore, the submission of the counsel for the petitioners that veneer not being a raw wood or timber but a finished product of wood/timber deserves to be rejected as being without any substance. The expression 'fashioned for any purpose' under Section 2(6) of the Act would certainly include processed or finished timber and, therefore, veneer must be held to be a 'timber' under Section 2(6) and, therefore, a 'forest produce' under Section 2(4). It is to be kept in mind that timber is one of the specified items mentioned in Clause (a) of Section 2(4) of the Act.

8. While dealing with the case of Sandal oil and considering the question as to whether sandal oil is wood oil -- a produce specifically mentioned in Section 2(4)(a) of the Act, in the case of Forest Range Officer v. P. Mohammed All 1993 Supp (3) SCC 627 : AIR 1994 SC 120 the Supreme Court observed, 'The word 'includes' in the definition under Section 2(f) would show that it did not intend to exclude what would ordinarily and in common parlance be spoken of as wood oil. The expression being technical and being part of an inclusive definition has to be construed in its technical sense but in an exhaustive manner; it cannot be restricted in such a manner so as to defeat the principal object and purpose of the Act'. The controversy in that case was that while wood oil is a natural produce of particular species of timber derived as an exudation from trees in the forest, Sandalwood is a bye-product which comes into existence by industrial process in a factory. Rejecting the contention and the distinction sought to be made on that basis the Supreme Court held that the process by which the oil is extracted is not decisive as oil may be extracted by natural process of exudation or it may be extracted by subjecting to chemical or mechanical process. The Court observed that in such cases a purposive interpretation of statute is required and in the context of the Forest Act it is imperative to do so which would aid conservation of sandalwood, a valuable forest wealth, prevent illicit felling and transportation of

sandalwood trees and make the manufacturers of sandalwood oil accountable for the possession of sandalwood trees or chips or roots etc.

9. The judgment of the Gauhati High Court in *North Cachar Timber Products v. State of Assam*, no doubt, supports the stand of the petitioners but does not seem to lay down a correct law. The learned Judge relied on certain decisions of the Supreme Court which had been rendered in the context of other statutes and referred to the dictionary meaning of the term 'veneer' in coming to the conclusion that veneer cannot be termed as a forest produce. It is well known that the same word or term occurring in different statutes may not have the same meaning, and the meaning has to be derived from the context in which the word is used. Further it is also well known that different meanings of the particular word are given in the dictionaries and they are not always a safe guide or basis to understand its true meaning in the context of the particular Act.

10. In *Deputy Chief Controller of Imports and Exports, New Delhi v. K. T. Kosalram* AIR 1971 SC 1283 : 1971 Cri LJ 1081, the Court observed,

In our opinion dictionary meanings, however, helpful in understanding the general sense of the words, cannot control where the scheme of the statute or the instrument considered as a whole clearly conveys a somewhat different shade of meaning. It is not always a safe way to construe a statute or a contract by dividing it by a process of etymological dissection and after separating words from their context to give each word some particular definition given by lexicographers and then to reconstruct the instrument upon the basis of those definitions.

A Full Bench of this Court in *Md. Aaur Rahman v. State of Bihar*, 1989 Pat LJR 711, noticed the decisions on the point and observed,

In view of the aforesaid, it appears to me that the standard dictionary is not always a safe or infallible guide to find out the meaning of an expression used in a statute.

11. In the above premise, the judgment of the Gauhati High Court based on the decisions rendered in the context of other statutes and on the basis of dictionary meaning of the term cannot be said to be conclusive of the matter. It is significant

to point out that in the whole of the judgment neither the provisions of Section 2(4) nor those of Section 2(6) of the Act were noticed. As I have already indicated above, veneer being a finished product of certain types of timber must be called 'fashioned' timber within the meaning of Section 2(6) and, therefore, a forest produce under Section 2(4) of the Act.

12. In course of hearing of the case Shri P. K. Shahi laid emphasis on the fact that the confiscation proceeding was disposed of with undue haste. He submitted that the fact that the case has been filed in this Court challenging the seizure and initiation of the confiscation proceeding, the Divisional Forest Officer should have stayed his hands and waited for the result of the case. He pointed out that in any view this Court had passed interim order regarding release of the truck and, therefore, this Court should pass appropriate consequential order in that regard. We are afraid, it is not possible to accept the contention of the counsel. The interim orders of the Court are subject to final orders and merge in the judgment which is finally delivered. In view of our conclusion that veneer is a forest produce there is no question of granting any consequential relief in regard to the release of either the truck or the veneer.

13. In the result, we do not find any merit in these writ petitions, which are accordingly dismissed. In the circumstances, we would make no order as to costs.

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