

**Kantilal Prekjit Patel Vs. Range Forest Officer and Another**

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**Court :** Mumbai

**Decided On :** Jul-21-1986

**Reported in :** 1986(3)BomCR613

**Judge :** B.G. Kolse Patil, J.

**Acts :** Indian Forest Act - Sections 52; Bombay Forest Rules, 1942 - Rule 88(1)

**Appeal No. :** Criminal Writ Petn. No. 171 of 1985

**Appellant :** Kantilal Prekjit Patel

**Respondent :** Range Forest Officer and Another

**Judgement :**

ORDER

1. The petitioner has been running a Saw Mill under the name and style of 'Sharda Timber Mart' at Yewat, Tal. Daund, Dist Pune. On 19th March, 1984 the Mobile Squad, Forest Department visited the Saw Mill. The petitioner was then present in the Mill. The squad found in the said Saw Mill 16 logs of teak wood without any marking of forest authority. They also found that they were recently cut. They noticed that truck bearing No. MTS 6429 was being unloaded in the closed compound of the Saw Mill. As the logs appeared to have been recently cut, they suspected some foul play. The panchas were summoned by the Range Forest Officer, who was in charge of the mobile squad. A panchnama was drawn up. A statement of the petitioner was then recorded. The petitioner stated that the Saw Mill was being run by him along with other partners since two years prior to that date, without any licence. The Range Forest Officer seize the truck and also seized the said wood. He also sealed the machinery of the Saw Mill as he had reason to believe that an offence in respect of the forest produce was being committed. The said Saw Mill was also being run without a licence.

2. The petitioner, thereafter, approached the Judicial Magistrate, F.C., Pune, with an application requesting the removal of the said seal. The learned Magistrate by his order dated July 3, 1984 allowed the application of the petitioner and directed the forest authority to remove the seal.

3. The aforesaid order of the learned Magistrate was challenged in revision in the Court of the Sessions Judge, Pune. An interim relief against the order of the learned Magistrate was granted and the order was stayed. The learned Sessions Judge allowed the revision application and set aside the order of unsealing passed by the learned Magistrate.

4. The petitioner has questioned the order of the learned Sessions Judge in this Criminal Writ Petition. Criminal Application No. 520 of 1985 in this Writ Petition was filed by the petitioner. An interim relief was granted to the petitioner and the order of the learned Magistrate was restored. The final hearing of this matter however, was expedited and the petition was listed for final disposal in June, 1985.

5. Shri Kankaria, the learned Counsel, appearing for the petitioner supported the order of the learned

Magistrate and the interim order of this Court and submitted that prima facie there is no provisions for sealing the machinery of a Saw Mill either in the Indian Forest Act (hereinafter referred to as the Act) or in the Bombay Forest Rules, 1942 (hereinafter referred to as the Rules). He further submitted that provisions of Section 52 of the Act do not specifically mention the Saw Mill. The sealing of the Saw Mill, therefore, is not contemplated under the Act or the Rules. The sealing of the Saw Mill is not even intended by the legislature. He further submitted that the penal statutes are always to be construed strictly. According to him, the word 'tools' in the section includes tools used for cutting the wood in the forest and putting it in the vehicles for transit. The word 'tools' means and necessarily implies instruments or tools used by manual workers. He contended that provisions of section 52 of the Act do not contemplate sealing as the word sealing is different than the word 'seizing'. What can be seized under this section is only moveable property. He, therefore, submitted that even if a prima facie case is disclosed against the petitioner, the Forest Authorities are not empowered to seal the machinery of the Saw Mill either under the Act or under the Rules. He lastly submitted that the word 'tools' is to be read in the context and the statute is to be construed as a whole.

6. On the other hand, Shri Agarwal, submitted that the forest offences can be divided into three parts, viz. (a) cutting and falling of the trees in the forest without permission (b) transporting the illicit wood and (c) storing and cutting of the illicit wood. He, therefore, contended that the provisions of Section 52 are contemplated to take care of all the three kinds of offences. The conversion of illicit wood into timber is done in the Saw Mill. Hence if the machinery of the Saw Mill is not sealed the offence falling under the third category cannot be checked. A narrow meaning cannot be given to the word 'tools' in Section 52 as suggested by Shri Kankaria. He invited my attention to the meaning of the word 'tools' given in New Webster's Dictionary of the English language. He further submitted that Section 52 in the Act should be interpreted to further the object of the legislation.

7. A very short question, therefore, arises for my consideration is whether the provisions of Section 52 of the Act empower the forest authority to seal the machinery of the Saw Mill and whether the word 'tool' includes the machines which are used in the Saw Mill for cutting wood.

8. Before recording the reasons, it is necessary to reproduce the meaning of the word 'tool' given on page 1037 and of the word 'seize' given on page 871 in the above referred dictionary.

Tool : an instrument employed in manual labour for facilitating mechanical operations; the cutting part on various machines driven by power, as a drill or lathe, a machine tool; the entire machine.

Seize : to take possession of by force or at will.

On plain reading of the meaning given to the word 'tool', it appears that the cutting parts of the various machines driven by power are included in the word 'tool'. As has been rightly submitted by Shri Agarwal, the offences falling under the third category cannot be checked unless the word 'tool' is interpreted to include the machines required for cutting the wood in the Saw Mill. The logs of illicit wood can be converted into timber only with the use of the said machines in the Saw Mill. I have, therefore, no hesitation to hold that the word 'tool' in Section 52 of the Act includes the machinery required for cutting wood in the Saw Mill.

9. The meaning of the word 'seize' means to take possession or control of a thing. The provisions of Section 52 of the Act, therefore, empowers the Range Forest Officer to seize the forest produce together with all tools, boats, vehicles or cattle used in committing a forest offence. In my opinion, therefore, the word 'seize' empowers the Forest Officer to take possession of the machines used in the Saw Mill.

10. For taking action under Section 52, the prosecution has to satisfy that a forest offence has been committed in respect of the forest produce. In the present case, when the Mobile Squad, on information, visited the Saw Mill, they found that 16 logs of teak wood without the marking of authorisation were being unloaded from a truck bearing No. MTS 6429. They were also recently cut. The petitioner, whose statement is recorded had admitted that the wood was illicit one and it was brought in the compound of the Mill with the

connivance of his other partners. Obviously, the illicit wood was being unloaded for the purpose of cutting the same and converting it into timber in the said Saw Mill. It is also interesting to note that the Saw Mill was being run without a licence for 2 years prior to 1st March, 1984.

11. Rule 88(1)(ii) prohibits erection or operation of any machinery or Saw Mill for cutting or converting of timber without obtaining any licence in that behalf. The said Rule further provides that the erection or operation of the Saw Mill is prohibited within the limits of 80 Kms. of any reserved or protected forest. In the facts and circumstances, I feel that a prima facie case is made out by the prosecution that there is a reason to believe that a forest offence is committed in respect of the forest produce. The submission of Shri Kankaria that the provisions of Section 52 of the Act do not empower the forest authority to seal the machinery in the Saw Mill, cannot, therefore, be accepted.

12. The Writ Petition is dismissed. The order of the learned Sessions Judge, Pune passed on 12th February, 1985 is hereby restored.

13. Petition dismissed.

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