



2025 INSC 660

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10989 OF 2018

VIJAY KUMAR PADALIA

..... APPELLANT(S)

VERSUS

STATE OF UTTARAKHAND &amp; ORS.

..... RESPONDENT(S)

O R D E R

The appellant, Vijay Kumar Padalia, had earlier filed Original Application No. 543/2017 for restraining the respondents therein and other State functionaries/authorities from constructing the motor road from NH-87 (now, NH-109)/Dakarauli to Malla Niglat, and for other ancillary reliefs, including a direction to the respondents not to cut, destroy, damage or degrade any tree/forest cover.

The aforesaid Original Application was permitted to be withdrawn, *vide* order dated 02.8.2018, with liberty to file a comprehensive application, incorporating subsequent developments. This order was passed in view of the statement made on behalf of the appellant, Vijay Kumar Padalia, that he had come to know about the issuance of forest clearance.

On 09.08.2018, the appellant, Vijay Kumar Padalia, filed what he believed was a comprehensive petition under Section 14 of the

National Green Tribunal Act, 2010<sup>1</sup>, which was registered as Original Application No. 522/2018.

The impugned judgment dated 24.10.2018 dismissed the aforesaid Original Application No. 522/2018, not on merits, but on the ground that in the said Original Application, the order granting sanction was challenged and, therefore, the appellant, Vijay Kumar Padalia, should have filed an appeal under Section 16 of the NGT Act.

Having heard learned counsel for the parties, we are of the view that this is a case where there has been miscarriage of justice and technicalities have been overstretched to dismiss and oust the appellant, Vijay Kumar Padalia.

Even accepting that the order granting sanction is appealable, the National Green Tribunal<sup>2</sup>, Principal Bench, New Delhi, should have permitted the appellant, Vijay Kumar Padalia, to either amend the Original Application, as filed, or permitted him to file a fresh appeal under Section 16 of the NGT Act. It is quite apparent that the appellant, Vijay Kumar Padalia, had proceeded in terms of and in accord with the language of the order dated 02.08.2018 passed by the NGT itself.

In view of the aforesaid position, we set aside the impugned judgment dated 24.10.2018 with an order of remand to the NGT. Original Application No. 522/2018 will be treated as an appeal under Section 16 of the NGT Act, preferred by the appellant, Vijay Kumar Padalia. We grant liberty to the appellant, Vijay Kumar

1 "NGT Act", for short

2 "NGT", for short

Padalia, to amend the said Original Application to bring it in conformity with the procedural requirements of an appeal, as stipulated. In addition, the appellant, Vijay Kumar Padalia, may file a separate petition under Section 14 of the NGT Act. The aforesaid fresh Original Application may be filed within a period of three weeks from today.

The amended Original Application/ appeal and the fresh Original Application will be taken up for hearing together and by the same Bench.

Learned counsel for the respondents has submitted that the issue of limitation may arise in so far as the appeal is concerned. If required and necessary, it will be open to the appellant, Vijay Kumar Padalia, to file an application seeking condonation of delay and rely upon Section 14 of the Limitation Act, 1963. We also accept the submission that exclusion of time on account of bona fide proceedings will apply, notwithstanding the upper time limit fixed for condonation of delay. Further, the appellant, Vijay Kumar Padalia, will be entitled to raise the plea that the order was never communicated and, therefore, the limitation period would commence only from the date of knowledge.

The NGT will examine all pleas and contentions raised by the parties in accordance with law. We make no comment either way on such pleas and contentions of the parties or on merits.

The interim order passed by this Court on 07.12.2018, which was continued thereafter, shall continue to operate for a period of two months from today.

The NGT, upon listing of the matters, would be entitled to modify, vacate or confirm the aforesaid interim order dated 07.12.2018, notwithstanding the fact that we have directed the said interim order to be continued for two months.

In view of the period of time that this litigation has been pending, we request the NGT to take up the matter for hearing expeditiously.

The appeal is allowed and disposed of in the aforesaid terms.

Pending applications, including the application for intervention/impleadment, shall stand disposed of.

.....CJI  
(SANJIV KHANNA)

.....J.  
(SANJAY KUMAR)

NEW DELHI;  
MAY 06, 2025.