



REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S). 3661 OF 2011

**STATE OF KARNATAKA
& ORS.**

....APPELLANT(S)

VERSUS

**GANDHI JEEVAN COLLECTIVE
FARMING CO-OPERATIVE
SOCIETY LIMITED**

....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. The State of Karnataka is in appeal before us for assailing the final judgment and order dated 6th January, 2009 in Writ Appeal No. 1079 of 2008, whereby, the learned Division Bench of the High Court of Karnataka at Bengaluru¹ affirmed the order dated 27th February, 2008 passed by the learned Single Judge in Writ Petition No. 3467 of 2007

¹ Hereinafter, being referred to as the “High Court”.

whereby the said writ petition was disposed of with liberty to the respondent² herein (writ petitioner therein) to file a suitable representation to the Deputy Conservator of Forests under the relevant rules within eight weeks and the appellant-State was directed to forward the said representation to the Ministry of Forest and Environment, Union of India to pass appropriate orders within six weeks thereafter.

3. The facts relevant and essential for disposal of the appeal are noted hereinbelow.

4. The State Government *vide* orders dated 17th March, 1973 and 30th June, 1976, granted an area of 134 acres 6 guntas of land located at Benachi and Tumarikoppa village in Kalaghatagi Taluk, Dharwad District to the respondent-Cooperative Society on 10 years lease starting from 30th June, 1976 for agricultural purpose.

5. The members of the respondent-Cooperative Society cleared the trees from the forest areas and started cultivating the same. At the end of lease period, the Government refused to extend the same

² Hereinafter, being referred to as the “respondent-Cooperative Society”.

and terminated the same *vide* order dated 13th March, 1985. The respondent-Cooperative Society thereupon instituted Writ Petition Nos. 6608 of 1985 and 12780 of 1987 for assailing the termination order which came to be dismissed on 15th April, 1985 and 12th July, 1988, respectively.

6. The society, thereafter, filed Original Suit No. 255 of 1988³ before Munsif and JMFC, Kalaghatagi, Dharwad District, which was partly decreed restricting the Forest Department from disturbing the possession of the respondent-Cooperative Society over the suit property till the respondent-Cooperative Society was evicted in accordance with law.

7. The said judgment was assailed in appeal being Regular Appeal No.54 of 1994 before III Additional Civil Judge (Senior Division) and CJM, Dharwad. The said appeal came to be dismissed *vide* judgment dated 11th October, 1999. The second appeal being Regular Second Appeal No. 686 of 2002 preferred by the appellant-State of Karnataka, also came to be dismissed on 8th September, 2003 with an observation that the State Government ought to have

³ Renumbered as Original Suit No. 160 of 1992.

taken legal steps to evict the respondent-Cooperative Society in accordance with law rather than preferring the second appeal.

8. In pursuance of the aforesaid order, the Assistant Conservative Forest Officer, Kalaghatagi Sub-Division, Karnataka, in exercise of powers under the Karnataka Forest Act, and Karnataka Forest Manual, initiated the legal process for eviction of the respondent-Cooperative Society and its members from unauthorized occupation of forest land and a formal order dated 22nd June, 2004 was passed directing the eviction of respondent-Cooperative Society.

9. The appeal preferred by the respondent-Cooperative Society against the said order to the Conservator of Forest, Dharwad Circle also stands rejected *vide* order dated 12th December , 2006. It is also not in dispute that the forest department took possession of the land in question on 23rd January, 2007 by drawing *mahazars of* even date.

10. After drawing the *panchnama*, boards of the department were placed thereupon cautioning against the unauthorized entry into the forest land.

11. The appellant-State of Karnataka has specifically mentioned in its additional affidavit, that the lands fall under the category of “forest” and are in the ownership and possession of its Forest Department. Presently, the same are not being cultivated. Reliance has been placed by the department on the order dated 13th November, 2000 passed by this Court in Writ Petition (C) No.337 of 1995 in the case of ***Centre For Environmental Law, WWF-I v. Union of India***,⁴ wherein, it has been categorically held that de-reservation of forest or sanctuaries or national parks cannot be made without the permission of this Court. The relevant extract from the said order is quoted hereinbelow: -

“2. Pending further orders, no de-reservation of forest/sanctuaries/national parks shall be effected.”

(Emphasis supplied)

12. At this stage, we may gainfully refer to the order dated 12th December, 1996 passed by this Court in continuing Mandamus of ***T.N. Godavarman***

⁴ 2000 SCC OnLine SC 119.

Thirumulpad v. Union of India and Other⁵,

wherein this Court has held as under: -

“5. We further direct as under:

I. GENERAL

1. In view of the meaning of the word "forest" in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any "forest". In accordance with Section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith. It is, therefore, clear that the running of saw mills of any kind including veneer or plywood mills, and mining of any mineral are non-forest purposes and are, therefore, not permissible without prior approval of the Central Government. Accordingly, any such activity is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must promptly ensure total cessation of all such activities forthwith.”

13. Having considered the submissions advanced at bar and after going through the material available on record, we are of the firm opinion that the very grant of lease to the respondent-Cooperative Society for agricultural purposes was uncalled for because it led to devastation and deforestation of huge forest area admeasuring nearly 134 acres. The respondent-Cooperative Society, having enjoyed cultivatory

⁵ (1997) 2 SCC 267.

possession over the forest area for a period of more than 10 years, was not entitled for any further extension of the lease which was in the first place illegally granted. As per the extant statutes, forest lands could not be allowed to be used for non-forestry purposes which would include agriculture.

14. This Court in a catena of decisions has passed numerous mandatory directions prohibiting de-reservation of forest. Granting permission to cultivate the forest land would essentially require clearing of forest and such a course of action is in the teeth of Section 2 of the Forest (Conservation) Act, 1980 which precludes de-reservation or use of forest land for non-forestry purposes without prior approval of the Central Government. The provision reads as follows: -

“2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose. —

(1) Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing—

(i) that any reserved forest (within the meaning of the expression “reserved forest” in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;**
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation, subject to such terms and conditions, as the Central Government may, by order, specify**
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.**

Explanation. — For the purposes of this section “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for—

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticulture crops or medicinal plants;
- (b) any purpose other than reafforestation,

but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—

- (i) silvicultural operations including regeneration operations;
 - (ii) establishment of check-posts and infrastructure for the front line forest staff;
 - (iii) establishment and maintenance of fire lines;
 - (iv) wireless communications;
 - (v) construction of fencing, boundary marks or pillars, bridges and culverts, check dams, waterholes, trenches and pipelines;
 - (vi) establishment of zoo and safaris referred to in the Wild Life (Protection) Act, 1972 (53 of 1972), owned by the Government or any authority, in forest areas other than protected areas;
 - (vii) eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area;
- and

(viii) any other like purposes, which the Central Government may, by order, specify.

(2) The Central Government may, by order, specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose.”
(Emphasis supplied)

15. Thus, no permission could have been granted to perpetuate the illegality committed while granting the lease of the forest land to the respondent-Cooperative Society.

16. Furthermore, it is not in dispute that the Forest Department, State of Karnataka has taken possession of the forest land on 23rd January, 2007. Thus, we are of the firm opinion that the impugned order whereby, the respondent-Cooperative Society was given an opportunity to make a representation to be considered by the Central Government for continuation of the lease on the forest land is not sustainable in the eyes of law. The Forest Department, State of Karnataka is directed to restore the forest on the 134 acres of released land by planting indigenous plants, tress in due consultation with the experts.

17. Compliance with the above direction be made within 12 months.

18. The appeal is allowed in these terms.

19. Pending application(s), if any, shall stand disposed of.

20. List on 17th December, 2026 only for receiving the compliance report.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
DECEMBER 18, 2025.