

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.269 OF 2008

State of Kerala

....Appellant(s)

VERSUS

Jossy Sequeria

...Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1) This appeal is filed by the State of Kerala against the final judgment dated 23.03.2006 passed by the High Court of Kerala at Ernakulam in C.R.P. No. 1924 of 2003 wherein the High Court allowed the revision petition filed by the respondent herein and quashed the confiscation order.

2) The controversy involved in the appeal is short. However, few facts need mention to appreciate the issue involved.

3) The appellant is State of Kerala. On 29.11.1998, the police sleuths seized 3 bags of sandalwood weighing 20 Kg. from one Jeep bearing Registration No. KA-12-2932. Basheer-the driver of the Jeep was arrested and handed over to the custody of Assistant Wild Life Warden, Tholpetty. The Jeep was also handed over to the said authority for further action in the case.

4) On investigation, it was revealed that the respondent is the owner of the Jeep. His statement was accordingly recorded. The authority concerned, on investigation, *prima facie* found that the forest produce seized was a Government property and the same was being illegally transported in the Jeep.

5) A show cause notice was accordingly issued to the respondent on 06.03.1999 to appear before the authorized officer. The respondent was heard. Finding no satisfactory reply, the authorized officer confiscated the forest produce and the Jeep under

Section 61-A of the Kerala Forest Act, 1961 (hereinafter referred to as “the Act”) by order dated 30.04.1999.

6) The respondent, felt aggrieved of the order dated 30.04.1999, filed appeal before the Additional District Judge Wayanad. By order dated 07.04.2003, the Appellate Court dismissed the appeal. The respondent, felt aggrieved of the order of the Appellate Court, filed revision petition before the High Court.

7) By impugned order, the High Court allowed the revision and quashed the confiscation order. It is against this order of the High Court, the State of Kerala has felt aggrieved and filed this appeal by way of special leave before this Court.

8) Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in the appeal.

9) We find that the High Court while allowing the respondent's revision petition for quashing confiscation order had placed reliance on the decision of the Kerala High Court in **Bhargavan vs. Divisional Forest Officer**, 1994(2) KLT 29. We have perused the decision rendered by the Kerala High Court in the case of **Bhargavan** (supra) wherein the High Court (Single Judge) on somewhat similar facts alike herein interpreted Section 61-A of the Act read with the Rules and had quashed the confiscation order impugned therein.

10) We are in agreement with the reasoning of the High Court recorded in the case of **Bhargavan** (supra). In this view of the matter, the High Court in this case was justified in deciding the issue in the light of law laid down by the Kerala High Court in **Bhargavan's case** (supra).

11) We also find in this case that the Courts below held on facts that firstly, the seized goods in

question were being brought from Karnataka by the owner of the Jeep; and secondly, it could not be proved that the goods belonged to the State of Kerala.

12) With these two findings of fact recorded by the Courts below, the High Court was justified in quashing confiscation order made under Section 61-A of the Act. We find no good ground to set aside these findings of fact.

13) In view of foregoing discussion, the appeal is found to be devoid of merit. It thus fails and is accordingly dismissed.

.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
September 05, 2017