

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPLICATION NO.101/2015(WZ)**

CORAM:

**Hon'ble Shri Justice U.D. Salvi
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande
(Expert Member)**

B E T W E E N:

Mr. Dipak Kisanrao Marne,
Age 34 yrs. Occn : Agriculturist and
Advocate, Address : At Post : Andgaon,
Tal. Mulshi, Distt : Pune.

.....Applicant

A N D

- 1. Mr. Rajendra Devrao Marne,**
- 2. Mr. Sagar Rajendra Marne,**
- 3. Mr. Sunil Sadanand Marne,**
- 4. Mr. Chandrakant D. Marne,**
Nos.1 to 4 R/o. Andgaon,
Tal. Mulshi, Distt : Pune 412115
- 5. Senior Police Inspector,**
Paud Police Station,
At Po. Paud, Tal. Mulshi,
Distt : Pune 412 108
- 6. Forest Officer, Mulshi (Paud)**
Forest Department, Mulshi,
At Po. Paud, Tq. Mulshi.
Distt : Pune 412 108

7. Tahsildar, Mulshi, (Paud),
AT Po. Paud, Ta. Mulshi
Distt : Pune 412 108

.....Respondents

Counsel for Applicants

Mr. Harshad P. Mandke,

Counsel for Respondent No.1 to 4 :

Nemo

P.C.

Date: December 16th, 2015

JUDGMENT

1. This is an Application for compensation of Rs. 4 lakhs (Rs. Four lakhs) for illegal and unauthorized act of cutting of 21 (twenty one) trees, one Khair tree-schedule tree under Maharashtra Felling of Trees (Regulation) Act, 1964 and other 20 (twenty) non-scheduled trees standing in land property Gat No.990 (Old S.No.85/5), at post Andgaon, Tal. Mulshi, Lavasa road, Pune.

2. According to the Applicant, the landed property-Gat No.990, village Andgaon, Tal. Mulshi, District Pune is his ancestral land and 21 (twenty one) trees referred to herein above were illegally and un-authorisely felled by the Respondent Nos.1 to 4 on 9-11-2014 for commercial purposes. The Applicant submits that the Respondent Nos.1 to 4 are running timber business and often engage

themselves in such activities of illegal and unauthorized tree cutting for monetary gain.

3. The Applicant states that the trees cut were full grown and he had lodged complaints regarding such illegal tree felling with Respondent No.5 Senior Police Inspector Police Station Paud, Respondent No.6 Forest Officer, Paud and Respondent No.7 Tahsildar, Mulshi (Paud), and as a result thereof the authorities had set the Law in motion in as much as :

1. Crime was registered against Respondent Nos.1 to 4 by the Paud Police Station.
2. Respondent No.6 conducted spot panchnama and directed Respondent Nos.1 to 4 to pay an amount of Rs.500/- (Rs. five hundred) each as and to do plantation double the number of trees cut in ensuing rainy season.
3. Respondent No.7 Tahsildar conducted proceedings under Section 25 of the Maharashtra Land Revenue Code, 1966 and directed Respondent Nos.1 to 4 to pay an amount of Rs.13,280/- being the cost of the trees cut and fine payable upon the said act of illegal felling of the trees.

4. Notice of this Application was duly served. The Respondent No.6 (Range Forest Officer, Mulshi) filed the

report dated 15th October 2015. The Respondent Nos.1 to 4 have appeared before us pursuant to the service of Notice and filed reply affidavit dated 16th November 2015 to the Application.

5. The Respondent Nos.1 to 4 have nothing more to say beyond what they have disclosed in the reply dated 16-11-2015 and they do not wish to engage any counsel for defending themselves in the present proceedings.

6. We have heard the parties and have gone through the Application and the documents annexed thereto as well as report of the Respondent No.6 and the reply of Respondent Nos.1 to 4 dated 16-11-2015.

7. In response to the specific case of the Applicant, about illegal and unauthorized cutting of 21 trees standing on the land-Gat No.990 of village Andgaon, the Respondent Nos.1 to 4 state that they did cut the trees but the trees were of local variety (*Raival*) standing on their landed property-Gat No.1021 of village Andgaon and the said trees belonged to them. According to Respondent Nos.1 to 4, the trees were cut for religious purposes and there was no intention of committing theft or commercial exploitation. The Respondent Nos.1 to 4 pertinently revealed that the Forest Department proceeded against them and penalized them for such cutting of the trees, and they suffered the penalty imposed on them. The Respondent Nos.1 to 4

further pleaded that they are in impoverished financial condition and alluded to the intimidation on part of the Applicant to involve them in the legal proceeding.

9. From the reply of Respondent Nos.1 to 4, it is very clear that 21 (twenty one) trees were cut without any authorisation. The only question that arises is regarding the land where the trees were standing before they were cut. However, except their bland statement that the trees were cut from land Gat No.1021, there is nothing to substantiate it. On the other hand, we find from the report of the Respondent No.6-Forest Officer, as well as the directions passed by the Tahsildar, dated 24th July 2015 in Enquiry Proceeding held under Section 25 of the Maharashtra Land Revenue Code 1966 (Exhibit 'F') to the Application that the trees cut were standing on the land bearing Gat No.990, at village Andgaon, Ta. Mulashi, District Pune. The record before us discloses that Gut No.990 is not owned by the Respondent Nos.1 to 4.

10. Be that as it may, we need not detain ourselves with the issue as to whom the said trees belonged. Learned counsel for the Applicant submits that he is not seeking compensation for personal loss but for the environmental loss incurred on account of unlawful cutting of the trees.

11. Report of the Range Forest Officer dated 15th October 2015 reveals that the Respondent Nos.1 to 4 were directed

to pay fine of Rs.500/- (Rs. Five hundred) each and plant two times the tree felled in ensuing rainy season. The report further reveals that fine amount of Rs.500/- has been deposited by Respondent Nos.1 to 3 in the office of RFO and as per these directions, the trees have been planted in Gat No.1021 at village Andgaon. If one relies upon this report, one may find that there has been compensatory afforestation in respect of one schedule tree, as per the order passed by the Tree Officer in illegal tree felling case No.1/2014 (Paud). However, there is no inbuilt safeguard or any mechanism, assuring the protection of trees and its continued growth for the benefit of environment in the order. Furthermore, it reveals that as regards non scheduled tree, the matter was relegated to Tahsildar, Mulshi. The Order dated 24th July 2015 passed by Tahsildar Mulshi, merely records the direction to Respondent Nos.1 to 4 herein to pay an amount of Rs.10,280/- towards the costs of the trees cut and fine amount of Rs.3,000/- (Rs. Three thousand) to the State. We have been informed that this amount of Rs.13,280/- has not been paid or deposited with the State. What will be the use of this amount is not clear from the said direction.

12. For ensuring restoration of environment, which has sustained loss on account of cutting of the trees, it is necessary that atleast double the number of trees cut are

planted under the caring attention of the Forest Officer. Learned counsel appearing on behalf of the Forest Department submits, on instruction, that for assuring afforestation in order to adequately compensate the environment in the vicinity of village Andgaon, it is necessary that atleast double the number of cut trees are planted in the area of degraded forest and looked after for three (3) years. He further submits, on instruction, that such afforestation will costs Rs.15,000/- (Rs. Fifteen thousand). As regards the claim of compensation made by the Applicant, we have nothing before us to aid quantification of the claim made.

13. Considering these facts and circumstances, in the interest of environment and to do complete justice in the matter, we pass the following directions :

1. The Respondent Nos.1 to 4 shall pay an amount of Rs.15,000/- to the Forest Officer, Paud, Pune, within 15 (fifteen) days.
2. Range Forest Officer, Paud, Pune shall employ this amount for plantation of 42 (forty two) trees in degraded forest area in the vicinity of village Andgaon and shall further employ this amount for taking care of such plantation.
3. The Respondent Nos.1 to 4 shall pay costs of Rs.5000/- (Rs. Five thousand) to the Applicant.

14. The Application No.101/2015 stands disposed of accordingly.

15. The observations made and directions passed herein shall in no way have any bearing on other legal proceedings including the prosecution initiated against Respondent Nos.1 to 4 in respect of the subject matter of this case and all such legal proceedings shall be disposed off in accordance with Law.

....., **JM**
(Justice U.D. Salvi)

....., **EM**
(Dr. Ajay.A. Deshpande)

Date : 16th November 2015

ajp.