

IN THE COURT OF ADDITIONAL DISTRICT JUDGE,
ASKA, GANJAM.

Present: Sri Manoj Kumar, OSJS,
Additional District, Aska, Ganjam.
(JO Code No:OD-00327)

Dated, this the 29th day of July 2026.

FAO No. 5 / 2015.

Ashok Kumar Mohanty, Aged about years,
S/o. Krushna Mohanty, Resident of village / PO Balichhai,
PS Polasara, Dist. Ganjam.

... Appellant.

-Versus-

- (1) State of Odisha, Represented by the Collector,
Ganjam, At / PO / PS Chatrapur, Dist. Ganjam.
- (2) Authorized Officer-cum-Divisional Forest Officer,
Ghumusar South Division,
At / PO / PS Bhanjanagar, Dist. Ganjam.
- (3) Kalu Charan Behera, S/o. late Khalli Behera,
At / PO / PS Polasara, Dist. Ganjam.
- (4) Surendra Jena, S/o. Biswanath Jena,
Village Rampudi, PO / PS Polasara, Dist. Ganjam.

... Respondents.

Counsels:

For Appellant : Sri Saratendu Panda &
Associates, Advocates,
Aska.

For Respondent No.1 & 2: Sri Narayan Muni,
Addl. GP, Aska.

For Respondent No.3 & 4: Sri S.K. Tripathy,
Advocate, Aska.

Date of Argument : 15.07.2026.

Date of Judgment : 29.07.2026.

O R D E R

The appellant has preferred the present First Appeal Order u/S. 56(2)(c) of Orissa Forest Act, against the respondents, challenging the order dated 03.08.2015, passed by the learned Authorized Officer-cum-Divisional Forest Officer, Ghumusar South Division, Bhanjanagar, Ganjam in OR Case No. 237 / 2000-2001 of Forest Range, Aska, arising out of 2(b)CC Case No. 3 / 2001 of the Court of JMFC, Aska.

2. The prosecution Case is that on 05.02.2001, at about 4.30 AM, the Forest Range Officer, Aska and the staffs of Aska, Kodala Range, while conducting patrolling duty on PWD Road near village Babanpur, PS Aska, Dist. Ganjam, they detected one Mini Truck bearing Regn. No. OR-02H-3657 (hereinafter referred to as 'vehicle in question'), carrying timber. On demand the driver Kalu Charan Behera and the helper Surendra Jena could not produce any TT permit / document in support of transportation of those timbers. So, the Range Officer, Aska seized the vehicle & illegal timber (sawn sizes 459 pieces = 113.02 cft.) for violation Section 56 of the Odisha Forest Act, 1972 & Rule 4, 12, 14 of the Odisha Timber and Other Forest Produce Transit Rules, 1980, punishable u/R. 21 of the said Rule. An offence case has been booked vide OR No.237 / 2000-01 of Aska Range. Accused

persons were arrested & forwarded to the Court of JMFC, Aska. During the course of enquiry the Authorized Officer-cum-Divisional Forest Officer, Ghumusar South Division has submitted sanctioned PR against the accused persons u/R. 21 of the Odisha Timber & Other Forest Produce Transit Rules, 1980 to the Court of JMFC, Aska. On receipt of the production report from the Forest Range Officer, Aska vide his Memo No.107 dtd.06.02.2001, the Authorized Officer-cum-Divisional Forest Officer, Ghumusar South Division had inspected the seized forest produce & initiated the confiscation proceedings as there was prima facie of involvement of the vehicle in commission of forest offence.

3. The notice to show cause was issued to the appellant Ashok Kumar Mohanty (owner of the vehicle) who submitted his show-cause stating therein that the Mini Truck No. OR-02H-3657 was registered in the name of M/S Kalakanhu Krushak Unnayan Samiti, Ballichai, & he was the Secretary of the said society, looking after the vehicle. On 06.02.2001 the driver Kalu Charan Behera informed him at Polosara Hospital regarding the seizure of the vehicle on 05.02.2001. In reply the driver told that the vehicle was on hire basis for transportation of rice. At the place of loading they took rest. When they awakened from sleep & reached near the vehicle the driver saw the vehicle is loaded with timber instead of rice & one antisocial person drove the vehicle. Enroute when the forest staff

detained the vehicle the antisocial persons fled away from the spot. The forest staff caught the driver & brought to Range Office Aska. According to the appellant, the driver was solely responsible for the offence and he was having no connivance with the driver or knowledge with regard to alleged transportation of timber and hence, the Confiscation Proceeding should be dropped.

4. Six number of witnesses were examined from the side of the Department whereas the driver, helper and the owner of the vehicle were examined from the side of the defence and on scrutiny of the evidences on record, learned Authorized Officer was of the view that a forest offence has been committed in respect of seizure of 459 numbers of wooden planks and sizes and being transported illegal in Mini-Truck bearing registration No. OR-O2H-3657 on 05.02.2001 with the full knowledge of the owner of the vehicle and hence, the vehicle is liable for confiscation. Accordingly, by exercising the power conferred U/s 56(2) (a) of Orissa Forest Act, learned Authorized Officer-Cum-D.F.O. Ghumusur South Division ordered for Confiscation of the vehicle to the State and the said judgment dated 03.08.2015 is impugned in this appeal.

5. As per memorandum of appeal, the case of the appellant is that on 05.02.2001, at about 4:30 AM, the Forest Range Officer, Aska along with his staff seized one Mini Truck bearing Regn. No. OR-02H-3657 (hereinafter

referred to as 'vehicle in question'), alleging that the said Mini Truck was used for transporting timber without proper T.T. permit. On receipt of production receipt, the respondent No.2 initiated confiscation proceeding vide O.R. Case4 No. 237 / 2000-2001 and the respondent No.2 had released the vehicle in question, as per direction of Hon'ble High Court by depositing cash security of Rs.20,000/- and property security of Rs.1,50,000/-. The respondent No.2 confiscated the vehicle in question on 03.08.2015 and forfeited the cash security and attached the property security. Being aggrieved of the said confiscation order and forfeiture of the cash security, the appellant has contended different grounds, in support of his appeal, which are as follows:

- (i) The impugned order passed by respondent No.2 is based on more surmises and conjecture than the evidence on record.
- (ii) Law is well settled that before any order of confiscation, if passed, the Authorized Officer is to record clearcut findings regarding commissions of offence and such offence was committed with the knowledge of the owner of the vehicle in question, but in the present case, the respondent No.2, without clarifying the same issue, has passed the order of confiscation which is bad in law and is liable to be set aside.
- (iii) Sec.56(2)(c) of the Orissa Forest Act envisages that no order of confiscation will be passed if the vehicle in question was used in crime without the knowledge of the

owner-appellant. In this case, the prosecution has failed to lead any evidence as the owner-appellant was having knowledge regarding unauthorized transportation of forest produce in his vehicle, for which, the order of confiscation, passed by respondent No.2, is illegal & liable to be quashed.

(iv) It is specific plea of the appellant that he had instructed his driver as well as the helper to transport rice and not to carry any contraband article, in particular the alleged forest produce, in the vehicle in question and that he was ill and admitted at CHC, Polasara on the date of the alleged occurrence i.e. 05.02.2001 so, it is crystal clear that the owner-appellant had no knowledge for transportation of the alleged timber.

(v) Though the order of confiscation is passed on 03.08.2015, it was communicated to the owner-appellant by ordinary post which was delivered on 12.09.2015 at Bhanjanagar and the appellant had received the same on 15.09.2015, for which, the appeal is in time.

It is prayed by the appellant that this appeal may be allowed and the confiscation order dt. 03.08.2015, passed by the respondent No.2 in O. R. Case No. 237 / 2001 of his file be set aside.

6. On the other hand, learned Additional G.P supported the impugned judgment and submitted that the Authorized Officer-Cum-D.F.O. Ghumusur South Division having been arrived at a conclusion by duly following the

principle of natural justice that the vehicle was involved in forest offences and the owner of the vehicle was having full knowledge and connivance in the commission of forest offence (illegal transportation of timber) and further during the inquiry the Authorized Officer-Cum-D.F.O. Ghumusar South Division, Bhanjanagar, has submitted the sanction PR against the accused persons under Rule 21 of OTT Rules, 1980, there is nothing to disagree with the finding of the Authorized Officer and there is no merit in the appeal which is liable to be dismissed

7. In the above premises, this Court is called upon to adjudicate as to whether the mandatory provisions of law have been followed in this case and if the impugned judgment is legally sustainable in law. Section 56 (1) of the Orissa Forest Act, 1972 provides the procedure for seizure of the property, when there is reason to believe that forest offence has been committed in respect of any forest produce and the said forest produce along with articles including the conveyance used in committing such offence and its confiscation. Sub-Section (2-c) of Section 56 of the Orissa Forest Act, 1972 carves out an exception that if the owner of the said articles including conveyance proves to the satisfaction of the Authorized Officer that it was used without his knowledge or connivance or the knowledge or connivance of his agent, if any, or the person in charge of the said articles or conveyance, in committing the offence and that each of them had taken all reasonable and

necessary precaution against such use, then no order of confiscation under sub-Section (2-a) of Section 56 can be made. In other word, it is the owner who has to prove that the articles like tool, rope, chain, boats, vehicle or cattle etc. had been used without his knowledge or connivance or the knowledge or connivance of his agent, if any, or the person in charge of the article in question and it must be further proved that the owner and its agent or person in charge of said article in question had taken all reasonable and necessary precaution against the use of the article in question in respect of the commission of the forest offence.

8. The vehicle in question was allegedly transporting sawn sizes 459 pieces (113.02 cft.) of timber. Sub section (2-a) of Section 56 of the Orissa Forest Act, 1972 provides that when an authorized officer seizes any forest produce under sub section (1) or where any such forest produce is produced before him under Sub section (2) and he is satisfied that a forest offence has been committed in respect thereof, he shall order confiscation of the forest produce so seized or produced together with all tools, ropes, chains, boats, vehicles or cattle used in committing such offence. Section 2(g) (i)(a) of the Orissa Forest Act,1972 says that the forest produce includes the following whether found in or brought from a forest or not i.e., timber, charcoal, caoutchouc catechu, wood oil etc. Section 4 of the Orissa Timber & other forest produce Transit Rules,1980 envisages that except as provided in

Rule 5, all forest produce in transit by land, rail or water shall be covered by a transit permit to be issued free of cost by the Divisional Forest Officer or Assistant Conservator of Forests authorized by him in that behalf. Rule 14 says that subject to sub-Rule (1) of Rule 15, all timbers including round wood billets of and above sixty cm. mid-girth and ninety cm. length which are also fit for purposes other than fire wood, while on transit should bear the Orissa Forest Department hammer mark and registered property mark of the owner. In the instant case as per seizure list, illegal timber of sawn sizes 459 pieces (113.02 cft.) were found from the vehicle and there was no transit permit for the same. Since no transit permit could be shown for transporting the same and accordingly the forest offence was committed as observed by learned Authorized Officer. The departmental witnesses i.e., G. Prabhakar Pattnaik, Forest Range Officer, Aska has deposed during his cross-examination that he has seen the owner of the vehicle who came just after five minutes of detection of the vehicle in a Hero Honda motorcycle. When the seizure officer asked for the documents, the driver told that the owner is coming just behind the vehicle and he can only show the documents. The owner while escaping from the spot by the Hero Honda motorcycle, the driver has recognized him. Another witness Sri Sudam Panda, Forester Aska Section has deposed that after 2 to 3 minutes of the detection, the owner of the vehicle was seen going in the motorcycle to whom they tried to intercept but could

not stop the vehicle. During his inquiry, he has found that planks were brought from Sodak Saw Mill with active knowledge of the owner. Both the owner and helper confessed that they were transporting timber in due consultation and in support of the owner. Subash Pattnaik, Forest Guard, Khallikote Beat of Khallikote Range, Satrughna Pattnaik, Forest Guard, Biruliguda, Beat of Khallikote Range, Bijay Kumar Raula, Forest Guard, Dhaugaon CNG of Aska Range, Manoj Kumar Biswal, Gate Keeper, Dhaugaon CNG of Aska Range have also deposed in the similar lines. All the departmental witnesses have been examined and cross examined but their evidence could not be demolished in any manner despite thorough cross examination. Their evidence as regards to the search and seizure of vehicle and forest produce was found consistent and there is reason to disbelieve the same and as such the findings of the Authorized officer in that regard cannot be faulted with.

9. Sub section 2(2-c) provides that without prejudice to the provisions of Sub Section (2-b) of section 56 of the Orissa Forest Act, 1872, no order of confiscation under Sub section (2-a) of any tool, rope, chain, boat, vehicle or cattle, shall be made if the owner thereof proves to the satisfaction of the authorized officer that it was used without his knowledge or connivance or the knowledge or connivance of his agent, if any, or the person in charge of the tool rope, chain, boat, vehicle or cattle, in committing

the offence and that each of them had taken all reasonable and necessary precautions against such use. In the case in hand, according to the owner-appellant during his examination, has given in his deposition on dtd.29.06.2001 that when he was admitted in Polasara Hospital, on 06.02.2001 the driver and helper informed him about the seizure of the vehicle by forest Department for involvement in forest offence case. They told him that three antisocial persons of village Kanteikoli have loaded timber in the vehicle forcibly when vehicle was plying from Ballipadar to Bartini with rice. Further, the owner has told that after unloading of rice at Bartini, the timbers were loaded at Kanteikoli village. The helper of the truck has also deposed similarly. The driver of the truck did not appear to depose in spite of several notices. Therefore, from the aforesaid evidences on record, it is to be held that the owner of the vehicle could not discharge his onus of proof that the vehicle was transporting the forest produce without his knowledge or connivance and further that he had taken reasonable care and caution against such use and as such the vehicle is rightly ordered for confiscation and the findings in that regard by learned Authorized Officer cannot be held to be perverse.

10. In the case of **Sk. Ibrahim vs. State of Orissa & ors.**, reported in 2010 (I) OLR 716, it is held by Hon'ble Court that “liberal approach in the matter with respect to the property seized which is liable for

confiscation is uncalled for as the same is likely to frustrate the provisions of the Act”. After analyzing the evidence on record, so also the judgment of confiscation, as has been passed by the Authorized Officer, it is well established that the vehicle was involved in commission of forest offence and the owner of the vehicle / appellant could not able to discharge his onus to escape from the liability as required U/s. 56(2-c) of Orissa Forest Act.

11. Thus, the appraisal of the oral and documentary evidence on record, led me to an inescapable conclusion that the findings recorded by learned Authorized Officer-cum-D.F.O. Ghumusur South Division is wholly unblemished and hence the consequential order for confiscation of the vehicles in question to the State along with the seized forest produces needs no interference by this Court.

ORDER

In the result, the grounds of appeal fails and the appeal is dismissed on contest being devoid of any merit. The impugned judgment dated 03.08.2015 passed by learned Authorized Officer-cum-D.F.O. Ghumusur South Division, Bhanjanagar, in 2(b)CC No. 3 of 2001, arising out of Offence Report Case No.237 of 2000-2001, as regard to confiscation of the Mini Truck, bearing registration No. OR-02-H-3657 is hereby confirmed.

The parties are directed to bear their own cost in the appeal.

Office is directed to send back the L.C.R along with a copy of this judgment to the concerned Authorized Officer-cum-D.F.O. Ghumusar South Division, Bhanjanagar, forthwith.

Sd/-Manoj Kumar,
Addl. District Judge, Aska.

The judgment is dictated to the stenographer directly in the computer and corrected by me and Pronounced in the open court on this the 29th day of July 2026 under my hand & seal of this court.

Sd/-Manoj Kumar,
Addl. District Judge, Aska