

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6226 OF 1997

N. NAGOORGANI

APPELLANT

VERSUS

DISTT. FOREST OFFICER

RESPONDENT

WITH SLP(C) NO.16031/2000

O R D E R

Heard learned counsel for the parties on either side.

This appeal is directed against the impugned judgment passed by the High Court under which the order passed by the District Judge in favour of the appellant was upset.

In short and substance, the case of the appellant is that he made a claim petition before the Forest Settlement Officer, Sivakasi praying for exclusion of an area measuring 5 ares 40 cents in Survey No. 582/1 in Old Paimash No.527 in Zemin Patta No.272 in Oppilan Village from the forest. The said Officer, after holding inquiry, rejected the claim of the appellant. The appellant challenged the said order of the Forest Settlement Officer in the appeal filed under Section 10(2) of the Tamil Nadu Forest Act, 1882. The learned District

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Judge, after re-appreciating the entire materials placed before him, in the light of the rival contentions raised, found fault with the order passed by the Forest Settlement Officer and in the view he took, the learned District Judge allowed the claim made by the appellant to the extent of 4 acres 95 cents. The respondents challenged the validity and correctness of the order passed by the learned District Judge by filing Second Appeal in the High Court. The High Court, considering the materials placed on record, came to the firm conclusion that the land in question was included in the forest and that the appellant failed to establish his title over the said land. As can be seen from the impugned judgment, the learned Judge of the High Court referred to Exhibit D-2, under which the land in question was registered as Forest porombok after rejecting the claim of the heirs of Madathi Ammal in the year 1965 by the Assistant Commissioner and the said order of the Assistant Commissioner has attained finality. In the impugned judgment it is also observed that the appellant claimed to have entered into an agreement of sale of the suit land with the heirs of Madathi Ammal in 1972. When the land was registered as forest poromboke in 1965, the heirs of Madathi Ammal could not enter into an agreement with the appellant to sell the said land. As is evident from the discussion made by the learned Judge in the impugned judgment, it is clear that the appellant failed to establish his title over suit property.

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Looking to the impugned judgment, discussion made therein and the reasons recorded for concluding that the appellant failed to establish his title, it is not possible for us to say that a substantial question of law did not arise for consideration, because the basic question was one as to the title to the suit property, even to consider the claim of the appellant whether the land in question should be excluded from the reserved forest or not, essentially his claim had to be examined in the light of the ground raised by him that he got title to the property. The learned Senior counsel appearing for the appellant strongly contended that the Second Appeal filed before the High Court itself was not maintainable. Of course, he was fair enough to submit that this question was not raised before the High Court, although an attempt was made by making an application for review raising this ground after the judgment was delivered by the

High Court in the Second Appeal and that review petition was also rejected by the High Court.

Having regard to the facts and circumstances of the case and the basic question relating to title to the suit property, we do not think it appropriate to permit the learned ..4/-

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counsel for the appellant to raise this question of law for the first time before us. Since the impugned judgment of the High Court, on the facts found and established is correct and substantial justice has been done, we decline to interfere with the impugned judgment exercising our jurisdiction under Article 136 of the Constitution. In the result, the appeal fails and consequently, it is dismissed with no order as to costs.

In the light of the above order passed in the appeal, the special leave petition No.16031/97 is also dismissed.

.....J.
(SHIVARAJ V. PATIL)

New Delhi, (D.M. DHARMADHIKARI)J.
September 3, 2003.
ITEM NO. 106 COURT NO.9 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 6226 OF 1997

N. NAGOORGANI .. APPELLANT
VERSUS

DISTRICT FOREST OFFICER .. RESPONDENTS
(With office report)

WITH SLP(C)NO.16031/97-(With appln.(s) for stay)

DATE: 02/09/2003 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For appellant (s)Mr. K. Rajendra Choudhary, Sr.Adv.
Mr. V. Balachandran, Adv.

For respondent (s)Mr. A.T.M. Sampath, Adv.
Mr. V. Balaji, Adv.
Ms. T. Shanthi, Adv.
Mr. P.N. Ramalingam, Adv.

Upon hearing counsel the Court made the following
O R D E R

Mr. K. Rajendra Choudhary, learned Senior counsel for the appellant started his arguments at 3.00 p.m. and

had not concluded till the Court rose for the day.
The matter remained part-heard.

Sarita(Shelly Sengupta)
Court Master

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ITEM NO. 101(PH)

COURT NO.9

SECTION XII

DATE : 03/09/2003 These matters were called on for hearing today.

CORAM & APPEARANCE : AS ABOVE.

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Upon hearing counsel the Court made the following

O R D E R

Mr. K. Rajendra Choudhary, learned Senior counsel for the appellant resumed his arguments at 10.35 a.m. and concluded at 11.20 a.m. Thereafter, Mr. A.T.M. Sampath, learned counsel made his submissions in reply for five minutes.
The appeal is dismissed with no order as to costs in terms of the signed order.
In the light of the above order passed in the appeal, the special leave petition No. 16031/97 is also dismissed.

Sarita(Shelly Sengupta)
Court Master

(Signed order is placed on the file)