

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 2771 OF 2012

**THE STATE OF UTTAR PRADESH
THR. ITS SECRETARY & ORS.**

Appellant(s)

VERSUS

JYOTI BHUSHAN MISHRA & ANR.

Respondent(s)

O R D E R

1. This Civil Appeal by the State of Uttar Pradesh arises out of the Judgment and Order dated 23.02.2006 passed by the High Court of Judicature at Allahabad (Lucknow Bench) in W.P. No. 1444 (M/B) of 1996, whereby the Writ Petition filed by the respondents was allowed with certain directions.

2. Short facts, necessary for disposal of this appeal are that the Sahelwa Wild Life Sanctuary in Balrampur District, U.P. was notified on 14.11.1988. One of its ranges, the Barehawa range, known as Ganeshpur Beat with compartments 1, 2 and 3. The Narainpur Jhingha village was surrounded by compartment 1 and 2 of Ganeshpur Beat.

3. Prior to the notification of 1988, the farmers of the village had on 28.12.1965 requested the Divisional Forest Officer for exchange of their agricultural land with land on the out skirts of

the forest, as the Wild Animals from the forest were ruining their crop. In pursuance of this request, their agricultural land of 82.57 acres at Garhwa village was exchanged, with approval of the State Government, with 53 acres of land situated in forest lands. Plantation of trees was started by the Forest Department in the land received from the farmers, and it eventually became homogenous with the surrounding forest. However, it could not be declared a Reserve Forest under the Indian Forest Act, 1927, although the Forests surrounding it had been declared as Reserve Forests earlier. Since then the newly grown forest has merged with the existent habitat of animals as it has been in the continuous uninterrupted possession of the Forest Department for more than 20 years. Meanwhile, the farmers have been farming on the exchanged land.

4. However, in 1990, 3 of the 27 farmers who had exchanged the land, illegally sold said land at Narainpur Jhingha to the respondents, who also knew fully well that it had been the subject matter of exchange. They purchased and got it registered in their name after valuation at a much lower rate. As per the State, the sale as well as the sale deed is void ab initio.

5. In 1995, the respondents moved an application before the Divisional Forest Officer for granting permission to cut and remove fallen and dry standing trees. The respondents allege that though the exchange had taken place in 1970, it was not recorded in the revenue records. However, the fact remains that the original tenure holders had taken the Garhwa village land and were cultivating there. On 15.08.1995, when the respondents applied for permission

to cut the standing trees in the disputed area, they were informed that this application cannot be considered in view of the notification declaring the lands as reserve forest under the Indian Forest Act on 04.07.1970 and 11.01.1971. The order dated 22.09.1995 rejecting permission was challenged by writ in the High Court of Allahabad, Lucknow Bench.

6. In the Writ Petition, though the respondents specifically asked for a declaration that the land in question is not a forest land, the High Court found it unnecessary to delve into the question in view of the following reason:-

"In view of the above, the Writ Petition is to be allowed but so far as the first prayer is concerned with regard to the quashing of the alleged proceeding under Chapter-II of the Indian Forest Act is concerned, such relief is uncalled for because the opposite parties have themselves admitted that no proceedings are pending for declaring the disputed land as 'reserve forest' nor the land of the disputed plots were ever declared as 'reserve forest'. Since, there are no proceedings, there is no question of issuing a Writ in the nature of certiorari for quashing these proceedings."

7. Further, the High Court also proceeded to hold that such a direction is impermissible in law for the following reason:-

"Moreover in our opinion, no such relief as prayed in relief No.1, can be granted as any authority under an Statute cannot be retrained from giving recourse to the due process of law but since as is admitted case, till the plots in question are not declared and notified as reserve forest, the opposite parties would not interfere in the possession of the petitioners as owners of the plots in question except in accordance with law as discussed above."

8. In view of the above referred findings, the High Court passed

final order declaring that in case the respondents lift the trees which have already fallen, the same shall not be obstructed on the ground that the land is a reserve forest.

9. Having considered the matter in detail, we are of the opinion that the High Court has not considered the legal status of the land as the necessary notifications and the documents relating thereto were not before it. The only direction of the High Court is that for cutting the trees if permission is required, an application shall be made and the said application shall be disposed of as per law.

10. We are of the opinion that any order or direction to cut trees or to move cut trees will have to be considered in the context of the definition of "forest" as defined by this Court in *T.N. Godavarman Thirumulkpad v. Union of India*¹. The obligation to follow the procedure under the laws, rules and regulations continue to apply.

11. With this clarification, the Civil Appeal stands disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI;
DECEMBER 10, 2025

¹ (1997) 2 SCC 267.

S U P R E M E C O U R T O F I N D I A
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Date : 10-12-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

For Appellant(s) : Mr. Abhishek Saket, Adv.
Mr. Sudeep Kumar, AOR
Ms. Rupali, Adv.
Ms. Nidhi, Adv.

For Respondent(s) : Mr. Prakash Kumar Singh, AOR
Ms. Pooja Singh, Adv.
Ms. Purnima Jauhari, Adv.
Mr. Brij Bhushan Jauhari, Adv.

Mr. Shailesh Madiyal, Sr. Adv.
Mr. Mahesh Srivastava, Adv.
Mr. Vabhav Manu Srivastava, Adv.
Mr. P. N. Puri, AOR
Mr. Sudershan Goel, Adv.

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

1. The Civil Appeal is disposed of in terms of the Signed Order.
2. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)

(Signed Order is placed on the file)