

NARINDER SINGH v. DIVESH BHUTANI , PLRonline 428572, 2022 SCeJournal 878, (2022-3)207 PLR 217 (SC) (SN)

SUPREME COURT OF INDIA

Before: Justice A.M. Khanwilkar, Justice Abhay S. Oka and Justice C.T. Ravikumar, JJ.

NARINDER SINGH and Others – Appellant(s)

versus

DIVESH BHUTANI and Others – Respondent(s).

Civil Appeal No. 10294 of 2013 and others ,

21.07.2022

Punjab Land Preservation Act, 1900 Section 4 – Forest Act, 1980 S. 2 – “Whether a land covered under a special order issued by the Government of Haryana under Section 4 of the Punjab Land Preservation Act, 1900 is a ‘forest land’ within the meaning of the Forest (Conservation) Act, 1980?” – The lands covered by the special orders issued under Section 4 of PLPA have all the trappings of forest lands within the meaning of Section 2 of the 1980 Forest Act and, therefore, the State Government or competent authority cannot permit its use for non-forest activities without the prior approval of the Central Government with effect from 25th October 1980 – Prior permission of the Central Government is the quintessence to allow any change of user of forest or so to say deemed forest land. We may add here that even during the subsistence of the special orders under Section 4 of PLPA, with the approval of the Central Government, the State or a competent authority can grant permission for non-forest use – If such non-forest use is permitted in accordance with Section 2 of the 1980 Forest Act, to that extent, the restrictions imposed by the special orders under Section 4 of PLPA will not apply in view of the language used in the opening part of Section 2 of the 1980 Forest Act – We also clarify that only because there is a notification issued under Section 3 of PLPA, the land which is subject matter of such notification, will not *ipso facto* become a forest land within the meaning of the 1980 Forest Act – Therefore, the lands covered by the special orders dated 18th August 1992 issued under Section 4 of PLPA will be governed by the orders passed by this Court in the Petition for Special Leave to Appeal (Civil) Nos. 7220-7221 of 2017 – Hence, all the concerned authorities shall take action to remove the remaining illegal structures standing on land covered by the special orders and used for non-forest activities on the said lands erected after 25th October 1980, without prior approval of the Central Government, and further to restore *status quo ante* including to undertake reforestation/afforestation

programmes in right earnest. [Para 81, 82]

Held,

In this group of petitions, we are concerned with three special orders under Section 4 issued on 18th August 1992 in respect of the said three villages. The effect of the said orders is that the lands referred to therein are forest lands within the meaning of Section 2 of the 1980 Forest Act. Even if such orders are cancelled or amended or rescinded or their duration comes to an end, the status of the lands covered by the same as forest lands governed by Section 2 of the 1980 Forest Act cannot be altered without following the due process provided therein. Once a land is found to be a 'forest' within the meaning of the 1980 Forest Act, its user for non-forest purposes will be always governed by Section 2 of the 1980 Forest Act. Secondly, clause (i) of Section 2 provides that even in the case of a reserved forest under the 1927 Forest Act, the State Government cannot pass an order declaring that the same shall cease to be a reserved forest, without the prior approval of the Central Government. Thirdly, Section 2 starts with a *non obstante* clause which overrides anything contained in any other law for the time being in force in a State which will include all State and Central legislations applicable to the State. Therefore, *prima facie*, the 2019 Amendment Act enacted by the State Legislature would be repugnant to and violative of Section 2 of the 1980 Forest Act, if construed otherwise. Hence, whether the 2019 Amendment Act is given effect or not, it will not change the status of the lands covered by the special orders under Section 4 of PLPA as the said lands possess all the trappings of a forest with effect from 25th October 1980 within the meaning of the 1980 Forest Act. [Para 80]

The Judgment of the Court was delivered by

Abhay S. Oka, J.:—

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