

Law & Judiciary Deptt.

This is the reference from R. & F.D. to seek L. & J.D's advice on the point whether the provisions of Forest (Conservation) Act, 1980 (hereinafter the said Act) shall be attracted in the instant case.

2. At the outset it is stated that the answer to this query is in negative. From perusal of the papers it appears that the Govt. had acquired land of Shri R.S. Chavan & Others. from Survey No.37 situated at Village Kondhwa Budruk, Tal. Havell, Dist. Pune for the purpose of Kondhwa Leprosy Hospital. The land owners, instead of accepting the compensation for the lands, requested the Govt. to allot the alternate land from Survey No.20-A and 77 for agricultural purpose. Accordingly, the Revenue Deptt. have given the land owners the alternate land for agricultural purpose from the said Survey Nos. The land owners are cultivating Kharif crop from the said land. The land owners have requested to grant land to them on permanent Eksali basis. The Deptt. pointed out that the said land was reserved for forest vide Notification, dtd. 1.3.1879 and stated that Forest (Conservation) Act, 1980 shall be attracted in the instant case.

3. The Forest (Conservation) Act, 1980 has been enacted by the Central Govt. with a view to protect the forests and prevent deforestation. As per the said Act, the deforestation by the State Govt. is not allowed unless the Central Govt. approves the same. The object of this provision is to maintain vigil on the forest lands and, therefore, the powers of deforestation of the State Govts. have been restricted by making prior approval of the Central Govt. necessary.

4. In the instant case, the lands in question have been allotted to the original land owners as alternative, whose lands were acquired for the purpose of Leprosy Hospital. They are cultivating their lands since a long time and taking Kharif crop. Admittedly, there is no forest. Prior to the enactment of the Forest (Conservation) Act, 1980, the Collector or Tehsildar

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were competent to dispose of the forest lands as per the provisions contained in the Indian Forests Act, 1927. The land in question, which is not forest land, was given to the land owners admittedly prior to 1980.

5. The Deptt's attention is invited to L. & J.D's previous U.O.R.No.272/A/58, dtd. 19.1.1987 in which it was opined that if the forest land is already broken up and acquired before coming into force the Forest (Conservation) Act, 1980, further permission from Govt. of India is not necessary. This decision was based on the judgment given by the Hon'ble Supreme Court in State of Bihar V/s Bansiiram - AIR 1985 S.C. P.814. This view has been reiterated in subsequent similar cases. The Govt. vide Memorandum dtd. 2.4.1987 had taken decision on the basis of L. & J.D's previous opinion mentioned above that the lands in question are under cultivation for more than 40 years by the land owners. The said land in question cannot be termed as reserved forest.

6. In view of this, it is stated that the provisions of Forest (Conservation) Act, 1980 shall not be attracted in the instant case. The view taken by the Hon'ble Minister (Revenue) marked as 'x' at p.18/Ns is correct.

Issued after the approval of Secretary & S.L.A. (Shri Deshpande).

Encl. 2 bunch of papers

(A.Z. MOHOD),
Dy. Secretary to Government.

U.O.R. to R. & F.D./J-5,

No. 5070 /Civil/A/ 1209 dtd. the 27 July, 1998.