REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5397 OF 2010

M/S NATESAN AGENCIES (PLANTATIONS) .... APPELLANT(S)

VS.

STATE REP. BY THE SECRETARY TO GOVERNMENT ENVIRONMENT AND FORESTS DEPARTMENT.. RESPONDENT(S)

JUDGMENT

Dinesh Maheshwari, J.

Introduction

1. In this appeal by special leave, the plaintiff-appellant, said to be a partnership firm, has called in question the common judgment and decree dated 26.02.2007 in O.S.A. Nos. 193 of 2002 and 178 of 2003 (with C.M.P. No. 8947 of 2006) whereby, the Division Bench of High Court of Judicature at Madras, while allowing the appeal filed by the defendant-State and while dismissing the appeal filed by the plaintiff-appellant, has reversed the judgment and decree dated 15.10.2001, as passed by the learned Single

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Reason:

Judge in C.S. No. 561 of 1998; and has dismissed the appellant's suit for recovery of damages.

This matter, arising out of the aforesaid suit for recovery of damages, carries a peculiar and chequered history of its own, with assortment of several undisputed actual facts, a few disputed facts, and varied rounds of litigations. In a brief outline of the subject matter, it may be noticed that the plaintiff-appellant had allegedly taken certain parcels of land[1] on lease (initially for a period of 5 years in the years 1971-1972 and later, for a period of 25 years in the years 1977-1978) from its owner *Sri Nanamamalai Jeer Mutt, Nanguneri*[2] for plantation and co-related purposes. The case of the plaintiff-appellant has been that by virtue of a notification dated 06.03.1976, as issued by the Government of Tamil Nadu, the land in question was proposed to be included in a wild life sanctuary under the Wild Life (Protection) Act, 1972[3] and several propositions for award of compensation were actively considered by the authorities concerned, who were also under the mandate of the High Court to finalise the award of compensation at the earliest. The grievance of the plaintiff-appellant has been that on one hand, the land in question was not allowed to be used because of the proposal for its acquisition for wild life sanctuary and on the other hand, no amount of compensation was paid; and then, the defendant-respondent chose to

1 Comprising field Nos. 805/1, 805/3, 805/4, 806, 807,808 & 809 in Kalakkadu Village and field No. 495 in Malayadipudur Village (Nanguneri Taluk, Tirunelveli District), in all admeasuring 197.36 acres - Hereinafter referred to as 'the land in question' or 'the subject land'.

2 Hereinafter referred to as 'the *Mutt'*.

3 Hereinafter referred to as 'the Act' or 'the Act of 1972'.

exclude the land in question from the limits of the said wild life sanctuary by way of an order issued on 19.11.1993. The plaintiff-appellant and the *Mutt* challenged the said order dated 19.11.1993 in the High Court by way of a writ petition. On 13.09.1995, a learned Single Judge of the High Court allowed the writ petition so filed by the appellant and the *Mutt* but the Division Bench, in its judgment and order dated 18.09.1997, set aside the order so passed by the Single Judge and dismissed the writ petition while upholding the powers of the State Government to withdraw from the notification in question. The Division Bench, however, left it open for the writ petitioners '*to take appropriate civil action for quantifying their damages*'; and also observed that for the purpose of such an action, it was open for the writ petitioners '*to rely on the provisions of the Limitation Act for excluding the period during which they had been prosecuting the matter in this Court'* . Thereafter, the plaintiff-appellant instituted the civil suit in question against the defendant-respondent, seeking recovery of damages to the tune to Rs. 1,31,95,000/- together with interest @ 18% per annum, for having been allegedly deprived of the use of the land in question on the proposition for acquisition. A learned Single Judge of the High Court, by way of the judgement and decree dated 15.10.2001, partly decreed the suit, holding the plaintiff entitled to a sum of Rs. 86,88,000/- together with interest @ 9% per annum from the date of suit until realisation. However, in the appeal preferred by the defendant-State, the Division Bench of the High Court found no case for award of any damages to the plaintiff and, by its

impugned judgment and decree dated 26.02.2007, reversed the decree of the learned Single Judge and dismissed the suit. Hence, the plaintiff-appellant has preferred this appeal.

The relevant background and factual matrix

2. The relevant background and factual aspects of the matter could be briefly summarised as follows:-

The appellant, a partnership firm, had taken the land in question, admeasuring 197.36 acres, on lease from its owner, the *Mutt*, for the purpose of cultivating commercial crops such as tea, coffee and cardamom over 80 acres of the total available land. The appellant has alleged that the land in question was given on lease on 15.11.1971 but the registered lease deed in that regard was executed by the *Mutt* on 01.07.1972, for a period of 5 years i.e., from 01.07.1972 to 30.06.1977.

By G.O.Ms. No. 183 dated 06.03.1976, issued under Section 18(1) of the Act of 1972, the Government of Tamil Nadu stated its approval of the proposal of Chief Conservator of Forests to notify Kalakkadu Reserve Forest in Tirunelveli District as a sanctuary for the protection and development of wild life therein. This allegedly included the aforesaid 197.36 acres of land leased to the appellant.

On 23.03.1975 and on 17.09.1976, the appellant applied for clear felling of trees in 10 acres of land out of the said 197.36 acres but excluding the 80 acres already under plantation. However, the District Collector, by his

communication dated 16.11.1976, refused to grant such a permission to the appellant on the grounds that the land in question was demarcated under the said notification for the purpose of wild life sanctuary; and felling of trees may affect the soil conservation and moisture conservation measures in the locality.

Thereafter, on 14.07.1977, the District Collector issued a proclamation under Section 21 of the Act of 1972 specifying the limits of the sanctuary and requiring any person having any right to file the claim in Form No. 8 under the Wild Life Protection (Tamil Nadu) Rules, 1975[4]. The appellant would submit that the land in question was not included in this proclamation dated 14.07.1977.

The appellant would further submit that when the land in question was not included in this proclamation dated 14.07.1977 and the lease period under the aforesaid lease deed dated 01.07.1972 had expired on 30.06.1977, the *Mutt* was requested to execute a long-term lease in favour of the appellant for developing the plantation in a better manner. According to the appellant, on 20.03.1978, the *Mutt* granted a fresh long-term lease of the land in question in its favour for a period of 25 years (from 01.07.1977 to 30.06.2002) after obtaining permission of the Commissioner, Hindu Religious and Charitable Endowments and after consultation with the District Collector. We shall refer to the question relating to the alleged permission of the said Commissioner hereafter a little later.

4 Hereinafter referred to as 'the Rules of 1975'.

Continuing with the factual matrix, it is noticed that on 28.08.1978, the Collector issued another proclamation under Section 21 calling upon the persons claiming any right in or over the land covered thereunder to prefer a written claim within two months under the Rules of 1975. On 31.08.1978, the Collector issued the same proclamation in Tamil language, while also stating that the earlier notification dated 14.07.1977 was cancelled. According to the appellant, the land in question came to be included within the proposed sanctuary only under these notifications issued in the year 1978.

After the notifications aforesaid, various proceedings and exchange of communications took place where on one hand, the appellant and the *Mutt* made several attempts to get the subject land excluded from the proposed sanctuary and on the other hand, on 24.06.1984, the appellant filed a written statement in the award inquiry along with the claim in Form No. 8 under the Rules of 1975, claiming compensation to the tune of Rs. 41,36,866/-. The authorities concerned also exchanged various inter-departmental communications for the purpose of assessment of the amount of compensation. All these proceedings and communications need not be elaborated herein but it may be noticed that on 01.08.1985, the Collector rejected an application filed by the appellant for registration of Cardamom Estate in the land in question on the ground that the land was to be acquired for the purpose of setting up of the wild life sanctuary. Thereafter, on 23.03.1990, the Collector addressed a communication to the Special

Commissioner and the Commissioner of Land Administration that the compensation together with solatium and interest for the land belonging to the *Mutt* was estimated at Rs. 72,98,661/-. On 03.12.1990, the said Special Commissioner reduced the total estimated compensation to Rs. 65,06,453/- and requested the Government to pass appropriate order as regards the application of the relevant provisions of the Land Acquisition Act, 1894[5] to the present case. Further to this, on 05.03.1991, the Principal Chief Conservator of Forests informed the concerned Secretary to the Government about the expected liability of interest in relation to the award to be made in relation to the land in question.

While the proceedings aforesaid remained pending but no award had been made, the *Mutt* chose to challenge the proposal for acquisition of the land in question by way of a writ petition (W.P. No. 685 of 1991) before the High Court. The present appellant was arrayed as the fourth respondent in that writ petition. The respondent-State stated in its counter affidavit in the said writ petition, *inter alia,* that '*the State Government had applied their mind to the requirement of making publication under Section 18 of the said Act and found it was valid and had effected the publication in question under Section 18 of the Central Act 53 of 1972'*; and that it was *'not possible to exclude the lands of the petitioner from the limits of the Sanctuary. It will defeat the very purpose of creating the Sanctuary'*.

5 Hereinafter referred to as 'the Act of 1894'.

The said writ petition filed by the *Mutt* was, however, dismissed by a learned Single Judge of the High Court on 13.07.1991, *inter alia,* with the observations that Section 11-A of the Act of 1894 did not apply to the proceedings in question and that if an illusory compensation was awarded, the writ petitioner shall have the right to challenge the same. The *Mutt* also preferred an intra-court appeal but, on 20.01.1992, the same was dismissed as withdrawn by the Division Bench with the direction to the Collector to expedite the proceedings for making the award of compensation.

Thereafter, on 09.03.1992, a fresh notice for award inquiry was issued by the Collector under Sections 9(3) and 10 of the Act of 1894. In response, the *Mutt* sent a letter claiming compensation to the tune of Rs. 92,81,346/-. On the other hand, it appears from the submissions made that on 30.03.1992, the appellant filed the statement claiming compensation to the tune of Rs. 1,09,60,000/- for the market value of coffee, cardamom and tea plantations; Rs.96,00,000/- towards anticipated development of cardamom; and another Rs. 96,400/- towards the cost of the building constructed. The appellant also claimed 30% solatium and 12% p.a. interest from the date of notification until the date of award and 15% p.a. future interest on the total amount of compensation.

On 16.04.1992, the award proceedings were completed and a draft award was forwarded by the District Revenue Officer to the Special Commissioner. However, since the respondent did not take further steps for making the award, another writ petition, being W.P. No. 6931 of 1993, was

preferred, jointly by the *Mutt* and the appellant, seeking directions for early making of the award. This writ petition was disposed of by a learned Single Judge of the High Court on 11.08.1993 with directions for making the award within four weeks from the date of receipt of the order[6].

After passing of the aforesaid order dated 11.08.1993, when the matter was being processed by the authorities concerned, the Chief Conservator of Forests (WL) and Chief Wildlife Warden, suggested on 25.08.1993 that the proposed acquisition of the land in question may be dropped in view of the huge cost involved and acquisition of the land in question being not necessary. With reference to these facts, an application was moved on behalf of the respondent before the High Court on 21.09.1993, seeking six weeks' further time to enable the Commissioner, Land Administration to issue suitable directions to the Collector. It appears that on such an application, the High Court, by its order dated 26.10.1993, extended the time for making the award.

Thereafter, on 19.11.1993, the Collector, Tirunelveli, in the purported invocation of the powers under clause (a) of sub-section (2) of Section 24 of

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6 The learned Single Judge directed in the order dated 11.08.1993 thus:

> *"Hence I direct the competent authority, viz., Special Commissioner and Commissioner for Land Administration to take into consideration the valuation proposals sent in Collector's Office reference K2/1498/83 dated 20.6.1990 and 12.9.1990, and approved by the Special Administration and due representations of the 2nd petitioner dated 10.7.92 and the representations of the 1st petitioner dated 19.10.1992 and further representations of the 1st petitioners, if any, and the proposal of the District Collector Tirunelveli, the 2nd respondent herein and pass appropriate orders within four weeks from the date of receipt of this order from the Court."*

the Act of 1972, excluded the land in question from the limits of the wild life sanctuary. This order had the effect of releasing the land in question from the proposed acquisition and thereby, obviating the necessity of making the award of compensation.

The aforesaid order dated 19.11.1993, as issued by the Collector, Tirunelveli, had been the bone of contention in this matter. According to the appellant, the Collector having earlier taken the decision to acquire the land in question, compensation was required to be paid; and the authorities passed on dictates to the Collector to issue the said order dated 19.11.1993 only in order to circumvent the order passed by the High Court. The appellant has particularly referred to the letter dated 12.11.1993 by the Deputy Secretary, Forest Department to the Special Commissioner, wherein it was stated that the proposed wild life sanctuary could not meet the exorbitant cost of land acquisition and this acquisition was not required on priority. It is submitted that pursuant to this communication dated 12.11.1993, the Special Commissioner sent the letter dated 17.11.1993 to the Collector, Tirunelveli to exclude the land in question from the limits of the proposed sanctuary under clause (a) of sub-section (2) of Section 24 of the Act of 1972; and thus the Collector issued the questioned order dated 19.11.1993.

The said order dated 19.11.1993 was challenged jointly by the *Mutt* and the appellant by way of a writ petition in the High Court, being W.P. No. 21721 of 1993. The present appellant also filed a contempt petition (No. 340

of 1994) complaining of disobedience of the orders earlier passed by the High Court. On 13.09.1995, a learned Single Judge of the High Court allowed the writ petition and quashed the said order dated 19.11.1993; and also held the officers concerned guilty of contempt and imposed a fine of Rs. 1,000/- on each of them. However, the order so passed by the learned Single Judge was questioned by the respondent-State by way of an intra-court appeal, being WA No. 1041 of 1995, that was allowed by the Division Bench of the High Court by its judgment dated 18.09.1997 but with several remarks and observations against the respondent-State and while leaving it open for the writ petitioners to approach the civil Court for recovery of damages.

The observations made by the Division Bench in its judgment dated 18.09.1997 have formed the basis of the claim made by the appellant in the civil suit leading to this appeal. Having regard to the subject matter of this appeal and the questions involved, pertinent it would be to take note of the observations and findings in the judgment dated 18.09.1997 in the requisite details.

In its judgment dated 18.09.1997, the Division Bench in the first place observed that when the Collector had already taken the decision to acquire the land in question and to pay compensation, there was no occasion to exercise the power under clause (a) of sub-section (2) of Section 24 of the Act of 1972. The Division Bench also rejected the argument of the Government Pleader that withdrawal from the proceeding

could be sustained in terms of Section 48 of the Act of 1894. Nevertheless, the Division Bench was of the view that Section 21 of the General Clauses Act, 1897[7] was applicable and could have been invoked by the Government. However, even in this regard, the Division Bench observed that the entire action of the officers of the Government, right from conceiving the project in question to the late stage backing out, had been thoughtless, casual and perfunctory.

Even while making such remarks that the impugned actions had been thoughtless and the Government must suffer the consequences, the Division Bench of the High Court observed that the appellant and the *Mutt* had no right to insist on the Government to complete the acquisition proceedings and to proceed with the project as a sanctuary. After such remarks and observations, the Division Bench acknowledged the power of the Government to withdraw from the notification and to refuse an award under the Act of 1894. However, the Division Bench further proceeded to observe that the *Mutt* and the appellant had a valid case for claiming damages but in that regard, the damages suffered shall have to be proved in the Court of law. It was, thus, left open for the *Mutt* and the appellant to take appropriate civil action for quantifying the damages. The Division Bench also left it open for them to seek exclusion of the period during which they had been prosecuting the matter in the High Court.[8]

7 ~~Hereinafter referred to~~ as 'the General Clauses Act'.

8 These observations of the Division Bench of the High Court had been as under: -

With the aforementioned observations and findings, the Division Bench of the High Court concluded that the decision of the Government to exclude the land in question from the limits of proposed sanctuary was sustainable by virtue of Section 21 of the General Clauses Act and, while allowing the appeal, proceeded to dismiss the writ petition while leaving it open for the writ petitioners, including the present appellant, to agitate their rights in the appropriate forum. In view of this decision, the contempt proceedings were dropped.[9]

> *"20. We do not propose to say that the Government is blemishless. On the otherhand, the Government had acted thoughtlessly both at the stage of the notification under section 18 and at the stage of withdrawal from the notification. The Government must suffer the consequences of their action, both issuing declaration under section 18 and in committing inordinate delay in passing the award and ultimately withdrawing from the notification. But the damages suffered by the respondents on account of the Government's acts of commission and omission has to be proved in a Court of law. The respondents have no doubt, a valid case against the Government for their acts of commission and omission. The question is what is the actual remedy of the respondents. The maxim ubi jus ibi remedium (where there is a right, there is a remedy), is no doubt applicable on the facts of the present case. But, we are only pointing out that the remedy of the respondents is elsewhere. They have no right to insist on the Government completing the acquisition proceedings and proceeding with the project as a sanctuary. On the facts and circumstances of the case, we concede the power of the Government to withdraw from the notification and refuse to pass an award under the Land Acquisition Act. We keep it open to the respondents to take appropriate civil action for quantifying their damages and for this purpose, it is certainly open to them to rely on the provisions of the Limitation Act for excluding the period during which they had been prosecuting the matter in this Court."*

9The Division Bench concluded on the matter as follows: -

> *"23....We are construing the letter of the Government in Letter No. Ms. No. 377 EDF dated 12.11.1993 and the consequential order of the Special Commissioner and Commissioner of Land Administration in R.O. C. No. h2/34854/92 dated 17.10.1993 as constituting the decision of the Government to withdraw from the inclusion of the lands of the respondents in the sanctuary, and the*

In order to complete the chronicle of background, it may also be noticed that the present appellant alone preferred a petition for Special Leave to Appeal before this Court against the said judgment dated 18.09.1997, which was dismissed *in limine* on 23.02.1998.

Only after conclusion of the aforesaid litigation with dismissal of the petition for Special Leave to Appeal by this Court on 23.02.1998 that the appellant took up the action in civil Court for recovery of damages.

Before dilating on the facts and events relating to the action for recovery of damages, it would be apt to summarise the material facts and features noticed in the preceding paragraphs. Put in a nut-shell, the sum and substance of the matter is that the land in question, said to have been taken by the plaintiff-appellant on lease from the *Mutt,* was proposed to be included in the sanctuary for wild life by virtue of the notification dated 06.03.1976; and the attempts on the part of the *Mutt* and the appellant to

consequential acquisition of the said lands. We are exercising our discretionary powers under article 226 of the Constitution of India in holding that in the above two letters, the Government had taken a categorical decision to withdraw from the notification and the consequential acquisition. Therefore, we do not propose to take the order of the Collector dated 19.11.1993 for any purpose, as it simply follows the directions of the Government. Since the notification and declaration was issued by the State Government under section 18 of the unamended Wild Life Protection Act, it is the government and the government alone which can cancel or modify the notification by invoking the power under section 21 of the General Clauses Act. It is in this view of the matter, we uphold the decision of the Government to exclude 197.36 acres of land, belonging to the respondents and another extent of 148.55 acres from the limits of the proposed sanctuary. as perfectly in order and within the powers of the Government. Consequently, the prayer sought for in W.P. No. 21721 of 1993 cannot be granted and the writ petition will stand dismissed. The appeal is allowed in the above manner, leaving it open to the respondents to agitate their rights in an appropriate forum. Contempt appeal No. 6 of 1995 is also allowed. There will be no order as to costs."

get the land in question excluded from the sanctuary did not meet with success. Though the matter relating to the award of compensation for acquisition of the subject land was considered by the authorities concerned, who were also directed by the High Court to finalise the award at the earliest but, instead of making any award, the Collector issued the order dated 19.11.1993, excluding the land in question from the limits of wild life sanctuary. The *Mutt* and the appellant now felt aggrieved of the proposition for such exclusion of the subject land from the limits of the wild life sanctuary and again approached the High Court by way of writ petition against the said order dated 19.11.1993. On 13.09.1995, a learned Single Judge of the High Court allowed the writ petition so filed by the *Mutt* and the appellant. However, the Division Bench of the High Court, in its judgment dated 18.09.1997, did not approve of the order so passed by the learned Single Judge and dismissed the writ petition while leaving it open for the *Mutt* and the appellant to approach the appropriate forum in their claim for damages.

Civil suit for recovery of damages

3. Though having failed in its attempt to get the aforesaid order dated 19.11.1993 annulled but, with reference to the observations made and the liberty granted by the Division Bench of the High Court in its judgment dated 18.09.1997, the appellant took up the action for claiming damages from the

respondent-State. In this regard, the appellant served a notice under Section 80 of the Code of Civil Procedure on 01.03.1998 that did not evoke any response. Hence, the appellant instituted the civil suit for recovery of damages on 08.06.1998. The civil suit was founded on the facts referred hereinabove and on the grounds that from the first day of the proceedings starting in the year 1976 and until dropping of the same in the year 1993, the appellant was debarred from utilising the land in question; and that due to pendency of litigation in the High Court from the year 1993 and until 18.09.1997, the appellant could not file the suit for damages. It was also submitted that in view of the rights specified, and the liberty given, by the Division Bench of High Court, the suit was maintainable and was not barred by limitation.

As regards the measure and quantum of damages, the appellant referred to the alleged loss of earnings @ Rs. 2.31 lakhs per annum on the basis of valuation worked out in the award inquiry for the very same land. The appellant also claimed interest at the rate of 18% per annum and yet further claimed the cost of re-plantation and rearing operations as also the loss of profit for a period of 3 years that was likely to be taken for the crops to yield the fruits. The appellant claimed the total loss of earning for 22 years from 06.03.1976 and other components of loss as follows: -

		Rs.
"(a)	*Total on loss for 22 years (Rs.2.31 lacs xx 22 years)*	*50.82 lakhs*
(b)	*Interest on loss of income for*	

	22 years	*70.13 lakhs*
(c)	*Cost of replantation and rearing operations for 3 years @ Rs.5000/- per acre for 75.52 acres (restricted to)*	*7.00 lakhs*
(d)	*Repairs to Factory/Office and Labour Sheds to make it fit for use (restricted to)*	*1.00 lakhs*
(e)	*Loss of Revenue for three years (Rs.2.00 lakhs x 3 years) (the period that would be taken for re-planting the rearing plantation and to put them to yield) (restricted to)*	*3.00 lakhs*

	Total	*1,31,95,000/-."*

4. In the written statement, it was contended on behalf of the defendant-respondent that the plaintiff was not entitled to claim any damages; that there was no agreement between the plaintiff and the defendant; and the defendant did not cause any loss to the plaintiff. It was alleged that no private land was included in the notification under Section 18(1) of the Act of 1972 but Form No. 8 was filed by the appellant claiming compensation and thereby, voluntarily offering the private land for acquisition. It was alleged that subsequent to the offer so made, a proposal was sent to acquire the private property lying within the proposed sanctuary area but the proposal was dropped as the expenditure to the Government was an exorbitant one. It was also contended that in the absence of any express acceptance from the defendant to acquire the land, there was no completed contract between the plaintiff and the defendant; and when by way of the said letter dated

17.11.1993, the Collector, Tirunelveli was requested to drop the proposal of acquiring the private land and the Collector indeed dropped the proposed action, there was no actual acquisition of the land in question.

It was also contended by the defendant-respondent that the action of the Government in dropping the proposal to acquire did not affect the status of the land in question; that the claim of the plaintiff that he could not realize anything from the lands was not correct; and that the notification for proposed sanctuary could not have affected the possession and enjoyment of the land by the plaintiff. It was asserted that the subject land was never taken over or controlled by the Forest Department and neither the owner nor the lessee was prevented from enjoyment of the property, who remained in actual possession and enjoyment thereof. It was yet further submitted that even if the subject land was assumed to be under the control of Forest Department, the plaintiff had no right or claim against the defendant for the reason that the plaintiff was only a lessee of the *Mutt* and there was no privity of contract between the plaintiff and the defendant. The defendant-respondent submitted that the land owner had not come forward with any claim since there was no loss caused to them; and the plaintiff, if having any right under the law, was required to seek his remedy only with the lessor and not against the defendant.

The defendant-respondent also submitted that even if the land in question was notified, the cause of action, in any case, accrued to the plaintiff on 19.11.1993 and, therefore, the suit for damages was barred by

limitation. The defendant further submitted that the Division Bench, while allowing the writ appeal (by its judgment dated 18.09.1997), though had kept it open to the plaintiff to rely on the provisions of the Limitation Act, 1963[10] for excluding the period during which the matter was pending in the Court but, the Limitation Act was of no assistance to the plaintiff inasmuch as what was being prosecuted earlier was a challenge to the proposal of acquisition and then for compensation for the alleged take-over of the land in question whereas, what was being prosecuted in the suit was the claim for damages for the alleged loss of earnings from 06.03.1976. The defendant also raised the objections of want of territorial jurisdiction and non-joinder of necessary parties.

5. On the pleadings of parties, the Trial Court framed the following issues for trial:-

> *"1. Whether this court has territorial jurisdiction to try this suit?*
> *2. Whether the suit is barred by limitation?*
> *3. Whether the suit is bad for non-joinder of necessary parties?*
> *4. Whether the suit land was notified as forming part of the Wildlife Sanctuary?*
> *5. Whether the plaintiff is entitled to damages and if so what amount?*
> *6. Whether the plaintiff is entitled to interest?*
> *7. Whether there is any privity of contract between the parties to claim compensation?*
> *8. To what relief?"*

6. It appears that in the trial, partner of the plaintiff was examined as PW-1 and the documents Exhibits P-1 to P-42 were marked through him. The defendant did not adduce any oral or documentary evidence.

10 Hereinafter referred to as 'the Limitation Act'.

The Single Judge decreed the suit

7. After having heard the parties, the learned Single Judge of High Court, dealing with original suit, proceeded to determine the issues by way of the judgment dated 15.10.2001.

The learned Single Judge rejected the objections relating to the territorial jurisdiction and non-joinder of necessary parties and decided issue Nos. 1 and 3 in favour of the plaintiff. As regards issue No. 2 relating to limitation, the learned Judge referred to the observations of the Division Bench in the judgment dated 18.09.1997 and to the contentions of the parties and then, observed that he would disagree with the defendant and had no hesitation in holding that the suit was filed within time. Hence, issue No. 2 was also decided in favour of the plaintiff.

The learned Single Judge, thereafter, took up issue Nos. 4 and 5 together for determination and, in this regard, referred to the past proceedings commencing from the notification dated 06.03.1976 and various propositions for assessment of the amount of compensation for the proposed acquisition. The learned Judge extensively referred to the rival contentions and to a few documents, including the letter dated 28.05.1987 (Ex. P-17) by the Collector, Tirunelveli to the Deputy Secretary to the Government stating that the land in question was developed from 1972 to 1978 and cultivated with plantation crops but after the area was declared as wild life sanctuary, normal plantation was not allowed due to the land

acquisition proposals. The learned Judge also referred to the letter dated 23.03.1990 (Ex. P-21) by the Collector, Tirunelveli to the Special Commissioner and to the proceedings dated 03.12.1990 (Ex. P-22) of the Special Commissioner which were carried out for the purpose of assessment of the amount of compensation. Ultimately, the learned Judge accepted the submissions of the plaintiff that loss of earnings was calculated by the officers concerned at the rate of Rs. 2.31 lakhs per annum; and held the plaintiff entitled to this amount for 22 years i.e., a sum of Rs. 50.82 lakhs. The learned Judge though rejected the other claims of the plaintiff but allowed another sum of Rs. 1 lakh towards repairs of factory office. In this manner, the plaintiff-appellant was held entitled to the total sum of Rs. 51.82 lakhs towards damages. On issue No. 6, the learned Judge awarded another sum of Rs. 35.06 lakhs being interest @ 6% p.a. from 06.03.1976 to 18.09.1997 and also held the plaintiff entitled to the interest @ 9% p.a. from the date of filing until realisation. Issue No. 7 was separately decided in favour of the plaintiff in view of the findings on issue Nos. 4 and 5.

The Division Bench reversed the decree and dismissed the suit

8. Being aggrieved by the decree so passed by the learned Single Judge for damages and interest, the defendant-respondent preferred an appeal, being OSA No. 193 of 2002, before the Division Bench of the High Court. On the other hand, the plaintiff-appellant also felt aggrieved by the part of decree of the learned Single Judge insofar as its claim was not

accepted and preferred another appeal, being OSA No. 178 of 2003. Both these appeals and interlocutory application therein, being C.M.P. No. 8947 of 2006, were considered and decided together by the Division Bench in its impugned judgment and decree dated 26.02.2007.

The Division Bench of the High Court took note of all the relevant background aspects (as noticed hereinbefore) and the rival contentions and thereafter analysed the matter with reference to the law applicable. In this regard, the Division Bench in the first place extracted *in extenso* the relevant provisions of the Act of 1972 and examined two core questions: (1) as to whether the appellant could have acquired any right *qua* the land in question on the basis of the alleged second lease for 25 years after issuance of the notification under Section 18(1) of the Act; and (2) if the appellant at all had any right in the land in question, as to whether the same had been infringed in the manner that it may give any cause to claim damages. The Division Bench also referred to the evidence adduced on record and answered the material questions against the plaintiff-appellant, *inter alia,* in the following:-

> *"21. In the present case, the facts which have been hitherto culled out, indicate that initially there was a declaration of a sanctuary under Section 18(1) of the Act, but the process of acquisition was aborted. Section 20 contemplates that after issuance of such notification under Section 18, "... no right shall be acquired in, on or over the land comprised within the limits of the area specified in such notification, except by succession". As already analysed the provisions indicate that mere issue of notification under Section 18 does not debar the owner of any property in exercising his normal rights*

and similarly such right can be exercised by his heir. The embargo envisaged under Section 20 is relating to inter vivos transfer of any right in or over the land comprised within the area. Therefore, the plaintiff as an existing lessee for five years and the original owner were as such not debarred from exercising any right. However, it is apparent from the admitted facts that the subsequent lease for 25 years was executed in favour of the plaintiff after issuance of notification under Section 18. Since the plaintiff claims right on the basis of subsequent lease for 25 years, which was admittedly executed by the original owner after notification under Section 18, it is doubtful whether the plaintiff had acquired any right at that time, at least against the State. At any rate, even assuming that the plaintiff had any right as a lessee, there was no statutory embargo debarring the plaintiff from exercising his rights.

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24. In the present case, there is nothing on record to indicate that in respect of the area claimed, the plaintiff and the original owner had ever been dispossessed and prevented from exercising any right, save and except the refusal to grant permission for felling the trees way back in 1976. It is of course true that there are several correspondence on record which indicate that for ascertaining the compensation, the Collector and other authorities were asking for allotment of higher amount for the purpose of finalising the compensation and award, but, there is no material on record to indicate that the award proceedings, so far as the plaintiff and the land owner are concerned, had ever been finalised.

25. It is of course true that the letter Ex.P-17 dated 28.5.1987 written by the Collector to the Deputy Secretary to the Government recited that the lands of the plaintiff were declared as wild life sanctuary and its development activities had been stopped. However, this communication between two functionaries of the Government should not be construed as denying the original owner or the plaintiff any particular right. There is nothing on record to indicate that because of various steps taken under the Act, the original owner and the plaintiff were prevented from going inside the forest and

from collecting the usufructs. If under any misunderstanding relating to scope of the notifications and declarations already issued the plaintiff stopped its activities, it was the plaintiff's own misfortune and it cannot be said that the plaintiff was prevented in any unlawful manner by the State in exercising its lawful right. Merely because various correspondence indicate that the lands were covered under notification issued under Section 18, it cannot be said that the original owner and the plaintiff had been deprived. The only direct document relating to refusal to grant clear fell trees within 10 acres has already been analysed and that factor does not give rise to a cause of action for claiming an astronomical sum as claimed by the plaintiff. Since the plaintiff was not allowed to fell the trees, it can be well concluded that the trees are still available to be exploited after the area was excluded. However, from the above document alone, which was inter-departmental communication made in the year 1987, it cannot be construed that the original owner and the plaintiff had in fact been prevented from exercising its rights.

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27. Ex.P-14 relates to the prayer for clear felling trees in 10 acres. That cannot form basis for claiming loss at the rate of Rs.2,31,000/- per annum for 22 years. In the various writ petitions and the writ appeals, which had been filed, we do not find any allegation that at any point of time the original owner and the plaintiff had been prevented from exercising their normal rights. We fail to understand as to why the plaintiff should be paid compensation by way of damages unless there is any unlawful act on the part of the defendant. Merely because the plaintiff misunderstood the scope of declaration under Section 18 of the Act or the fact that some enquiries were pending, is not a ground to award damages.”

The Division Bench of the High Court also examined the purport and effect of the previous judgment dated 18.09.1997 and pointed out that the

observations therein did not mean that the rights and liabilities of the parties had been decided and only quantification of the amount of damages was to be made. The Division Bench held, in the following, that the plaintiff-appellant, having failed to plead and prove the specific case of unlawful activity on the part of the State or its officials, was not entitled to recover any amount as damages:-

> *"28. It is no doubt true that in the Division Bench decision, while deciding the writ appeal in favour of the Government, certain observations have been made indicating that it is open to the aggrieved party to seek for adequate compensation. Such observations cannot, however, construed to mean that rights and liabilities of the parties had been decided and only quantification is to be made. On the other hand, it was only made clear that even though the Government cannot be forced to acquire the land for the purpose of sanctuary, it was open to the aggrieved party to pursue his remedy obviously in accordance with law. If the person sustains any injury on account of any unlawful activity of the State or any of its official, it was for the plaintiff to clearly allege and prove such unlawful activity in order to claim any compensation by way of damages. Obviously the plaintiff does not have right to receive any compensation as envisaged under the Act. If he has to receive any amount on account of any unlawful activity on the part of the State or its official, a specific case has to be made out. In our considered opinion, in the present case, no such specific case has been pleaded, far less proved."*

Next, the Division Bench of the High Court referred to the question of limitation and, while referring to Section 14 of the Limitation Act, indicated its *prima facie* doubt if the period during which the litigation remained pending in the High Court could be excluded but left the matter at that, essentially for

the reason that the claim of the plaintiff had been rejected on merits. The Division Bench observed:-

> *"29…. Now the plaintiff is claiming damages on account of the fact that the area has been excluded from the sanctuary and thereby it has sustained damages, obviously the cause of action arose on that date i.e., 19.11.1993. The writ petition, which was filed was for quashing such order, was obviously for a different relief. The writ petition was dismissed on merit and not for want of jurisdiction. Prima facie we have doubt as to whether the period during which such litigations remained pending in the High Court can be excluded under Section 14 of the Limitation Act. However, since we have negatived the claim of the plaintiff on merits, it is not necessary to delve further into such question."*

Lastly, the Division Bench also rejected the claim of the plaintiff for interest and set aside the findings of learned Single Judge on issue No. 6.

In view of its findings on the relevant issues, the Division Bench of the High Court allowed the appeal filed by the State and dismissed the appeal filed by the plaintiff. Accordingly, the suit filed by the plaintiff-appellant was dismissed. Hence, this appeal.

<u>Rival contentions</u>:

9. Assailing the impugned judgment dated 26.02.2007, the learned senior counsel for the appellant has painstakingly taken us through all the background aspects of the matter and the relevant provisions of the Act of 1972; and has strenuously contended that the Division Bench of the High Court has erred in law as also on facts in reversing the considered decision

of the learned Single Judge and in dismissing the suit filed by the appellant. The learned senior counsel has referred to the jurisprudential concepts of ownership and property; and has contended that the lease hold rights on the subject land and plantations thereon had been the valuable property of the appellant; and deprivation of the usufruct of the subject land had been in direct violation of the appellant's right to property for which, the appellant is entitled to claim damages. The learned counsel has particularly referred to the letter dated 28.05.1987 by the Collector to the Deputy Secretary to the Government in Forest and Fisheries Department stating and acknowledging the facts that the land was developed by the appellant from the years 1972 to 1978; and the appellant was not allowed to continue with his work on the land in question after declaration of the area as wild life sanctuary due to the land acquisition proposal. The learned counsel has contended that there being clear admission of the fact that the appellant was indeed deprived of using the land in question and there being no evidence to the contrary, the learned Single Judge had rightly proceeded on such an admission of the defendant. The learned counsel has relied upon the decisions in ***Thiru John v. Returning Officer & Ors.*****: (1977) 3 SCC 540,** ***Sushil Kumar v. Rakesh Kumar:*** **(2003) 8 SCC 673,** and ***Standard Chartered Bank v. Andhra Bank Financial Services Ltd. & Ors.:*** **(2006) 6 SCC 94** to submit that the admission being the best evidence against the defendant, the suit was rightly decreed and the Division Bench has erred in reversing the decree so passed.

The learned senior counsel has further contended that in terms of the unamended provisions of the Act of 1972, once a land was notified under Section 18, even the land owner was prevented from using the land and he was required to wait until conclusion of the proceedings. The restrictions until the pendency of the proceedings, according to the learned counsel, had resulted in direct violation of the appellant's right to use his property; and in this case, where the subject land was unnecessarily sought to be acquired and then, to avoid compensation, the same was excluded after more than two decades, the appellant is entitled to claim damages for the loss suffered during all this time when the land could not be put to the requisite use. The learned counsel would submit that the State Government itself had admitted that the annual yield for the land in question could not be assessed as the appellant was prevented from carrying on any plantation activities and, therefore, the observations of the learned Single Judge, that the appellant was debarred from exercising his rights, were not incorrect and the damages towards the loss suffered by the appellant had rightly been allowed. Thus, according to the learned counsel, the impugned judgment deserves to be set aside and that of the learned Single Judge deserves to be restored. In support of these contentions, the learned counsel has relied upon several decisions, including that in ***Union of India v. Hari Krishan Khosla (Dead) by LRs*****: (1993) Supp (2) SCC 149,** which need not be dilated upon, for the reasons occurring *infra*.

As regards the quantum of damages, the learned senior counsel has argued that when the appellant has suffered huge loss for having been deprived of using the land in question and prevented from taking the usufruct, the quantum of damages had rightly been assessed on the basis of the loss of earnings assessed by the officers of the respondent-State during the award inquiry; rather the assessment had been on the lower side, looking to the loss and deprivation suffered by the appellant.

The learned counsel has also referred to the contentions sought to be urged on behalf of the defendant-respondent with reference to Section 60 of the Act of 1972 and has contended that such a plea was neither taken in the written statement nor any issue was framed in that regard nor any such contention was urged before the Single Judge and hence, the respondent cannot take such a plea at the later stage. Without prejudice to these submissions, the learned counsel has also contended that the principles of the decision of this Court in ***Kasturi Lal v. State of U.P.:*** **AIR 1965 SC 1039** are not of investing the State with a blanket or absolute immunity in relation to the tortious act of its officers; and has particularly referred to the decisions in ***N. Nagendra Rao & Co. v. State of A.P.:*** **(1994) 6 SCC 205** and ***Union of India v. Sancheti Food Products Ltd.:*** **(2015) 15 SCC 447.**

The learned senior counsel has also submitted that the suit filed by the appellant was well within time and could not have been dismissed on the ground of limitation. The learned counsel has referred to the observations made and liberty granted by the Division Bench in its previous

judgment dated 18.09.1997. According to the learned counsel, in this case, where the appellant was earlier prosecuting the matter in the writ petition against the Collector's order dated 19.11.1993 and in fact, the learned Single Judge had allowed the writ petition and quashed the said order of exclusion of the subject land from sanctuary, the said order ceased to be in existence and got resurrected only after the Division Bench's judgment dated 18.09.1997. In this view of the matter and in view of Section 14 of the Limitation Act, according to the learned counsel, the time spent in prosecuting the said writ matter is required to be excluded; and, therefore, the suit instituted on 08.06.1998 is not barred by limitation. The learned counsel has referred to the decisions in ***Rameshwar Lal v. Municipal Council, Tonk & Ors.:*** **(1996) 6 SCC 100** and ***Union of India v. Shring Construction Co. (P) Ltd.***: **(2006) 8 SCC 18.** The learned counsel has also submitted that the suit having been instituted within one year from the date of decision by the Division Bench, the requirement of Article 72 of the Limitation Act is satisfied. Further, with reference to the decision in ***State of A.P. v. Challa Ramkrishna Reddy & Ors.: (*****2000) 5 SCC 712,** the learned counsel has argued that the action of the authority concerned being not *bona fide*, the limitation of three years as per Article 113 of the Limitation Act would apply. According to the learned counsel, viewed from any angle, the suit is well within limitation.

10. *Per contra*, the learned senior counsel for the respondent-State has argued that the appellant is not entitled to make any claim for damages

when the land in question was not acquired by the Government. The learned counsel has contended that the land in question belonged to the *Mutt*, and if at all the same was leased to the appellant, the only remedy available to the appellant was against the *Mutt* and not the State as there was no privity of contract between the State and the appellant. The learned senior counsel has also raised the contention that in terms of Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959[11], the alleged lease for a term of 25 years was null and void because such a lease could not have been made unless sanctioned by the authority concerned; and, in this regard, only a cursory statement was made by PW1 of having obtained permission but no documentary proof of the requisite sanction was adduced.

The learned counsel has also contended that with the State and its officers having exercised their powers under the statute i.e., the Act of 1972 in a legal manner, the suit for damages was not maintainable in view of the provisions of Section 60 of the Act of 1972. The learned counsel has also referred to the decision in *Kasturi Lal's* case (supra) and submitted that the land in question having been excluded from the proposed sanctuary on relevant considerations, including the interest of public exchequer, the impugned action would not lead to any cause for claiming damages. The learned counsel has further referred to the statement of PW-1 in cross-examination that he was never dispossessed and has contended that there

11 Hereinafter referred to as 'the Tamil Nadu Act of 1959'

being no infringement of any of the legal rights, no case of claiming damages by the appellant is made out.

On the question of quantum of damages, the learned counsel has referred to the observations in the impugned judgment and submitted that nothing of actual loss having been proved and the subject land having been excluded from the sanctuary, the learned Single Judge had seriously erred in quantifying the damages with reference to the alleged loss of earnings for 22 years without any reason or justification.

The learned counsel for the respondent has also strenuously argued that even if it be assumed that the cause of action accrued upon issuance of the exclusion order dated 19.11.1993, the suit in question was clearly barred by limitation. According to the learned counsel, Section 14 of the Limitation Act would not come to the rescue of the appellant because the subject matter of the writ petition, which was filed jointly by the *Mutt* and the appellant in challenge to the order dated 19.11.1993, was not the same as that of the present suit because no claim for damages was made in the said writ petition. The requirements of Section 14 of the Limitation Act having not been satisfied, the learned counsel contended, the period of prosecuting the said writ petition cannot be excluded and, therefore, the suit is required to be dismissed on the ground of limitation. The learned counsel has relied upon the decision in ***Yeshwant Deorao v. Walchand Ramchand*: AIR 1951 SC 16.**

Preliminary Observations

11. We have bestowed thoughtful consideration to the rival submissions and have examined the record of the case with reference to the law applicable. Having examined the matter in its totality, we are undoubtedly of the view that the suit filed by the plaintiff-appellant was barred by limitation and even otherwise, the plaintiff-appellant had no case on merits to claim damages from the respondent-State. In other words, the Division Bench of the High Court has rightly allowed the appeal filed by the State and has rightly dismissed the baseless suit filed by the appellant. Hence, this appeal sans merit and deserves to be dismissed.

12. Before dilating on the questions relating to limitation and sustainability of the appellant's claim for damages, we may observe that the contentions belatedly put forth on behalf of the defendant-respondent, as regards validity of the alleged second lease in favour of the appellant on the anvil of the Tamil Nadu Act of 1959 (as urged before this Court); and as regards immunity from any action as per Section 60 of the Act of 1972 (as urged before the Division Bench of High Court) cannot be said to be wholly without substance. We would hasten to observe that the case of the appellant is not being rejected on these grounds for the reason that such contentions were not urged at the trial stage but, in the given set of facts and circumstances, we feel rather impelled to make *prima facie* observations in regards to these aspects.

As per the case of the appellant, the second lease deed dated 20.03.1978 in relation to the land in question was executed in its favour by the *Mutt* for a period of 25 years. The self-explanatory provisions of Section 34 of the Tamil Nadu Act of 1959[12] declare any exchange, sale or mortgage and any lease, for a term exceeding 5 years, of any immoveable property belonging to any religious institution to be null and void unless sanctioned by the Commissioner as being necessary or beneficial to the institution. The first proviso to the said Section 34 of the Tamil Nadu Act of 1959 also

requires that before according sanction, the particulars relating to the proposed transaction shall be published, while inviting objections and suggestions; and all objections and suggestions received from the trustee or any other persons having interest shall be considered. In the present case, a vague statement was made by PW-1 that the permission of the department concerned was obtained for the second lease for which, the

12 The relevant parts of Section 34 of the Tamil Nadu Act of 1959 read under: -

> ***"34. Alienation of immovable trust property.-****(1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purposes of, any religious institution shall be* null and void *unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution:*
>
> *Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly considered by the Commissioner:*
>
> *Provided further that the Commissioner shall not accord such sanction without the previous approval of the Government.*
>
> **Explanation**.- *Any lease of the property above mentioned though for a term not exceeding five years shall, if it contains a provision for renewal for a further term (so as to exceed five years in the aggregate), whether subject to any condition or not, be deemed to be a lease for a period exceeding five years.*
>
> ***   ***   *** "

Collector had made the recommendation but then, neither any documentary proof of any such permission/sanction is adduced nor it is shown that the proposed sanction was duly published and the objections/suggestions were invited and considered. For want of necessary evidence on the validity of second lease deed, *prima facie* it appears seriously questionable if the plaintiff-appellant had at all acquired any right in the land in question by virtue of the said lease deed, much less a right to claim damages from the State. Having regard to the circumstances of the case, we are leaving the aspect relating to the effect of Section 34 of Tamil Nadu Act of 1959 at that only, essentially because we are satisfied that the said lease deed was even otherwise impermissible and in any case, even on the basis of this questionable second lease, the plaintiff-appellant has no right to claim damages.

Secondly, by virtue of Section 60 of the Act of 1972[13], no civil suit in relation to any action taken in good faith under the Act of 1972 is

13 The relevant parts of Section 60 of the Act of 1972 read as under:-

> *60.* ***Protection of action taken in good faith****. - (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done under this Act.*
>
> *(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.*
>
> *** *** *** ”

maintainable. Although, this aspect was not pleaded in specific terms on behalf of the defendant-respondent nor any issue in that regard was struck but, *prima facie,* we have reservations if any action of the present nature could have been maintained against the respondent-State in the face of Section 60 of the Act of 1972. Be that as it may, as observed, we are not finally pronouncing on these aspects and are leaving the same at that.

13. Taking up the material points for determination in this case, though we are satisfied that the suit in question is liable to be dismissed for the bar of limitation but, for the reason that the learned Single Judge decided this issue in favour of the appellant and the Division Bench left it unanswered because of merit dismissal of the suit, it appears appropriate to discuss the question of limitation later and only after dilating on the merits of the claim for damages by the appellant.

Claim for damages by the appellant – whether sustainable?

14. In order to determine the point as to whether the appellant's claim for damages is sustainable and the Division Bench of the High Court was not right in dismissing the suit, a few basic questions, relating to the effect and operation of the relevant provisions of the Act of 1972 concerning the process of declaration of a sanctuary and acquisition of land for that purpose need to be addressed to.

The relevant provisions of the Act of 1972

15. As regards the basic questions involved in this case, the provisions contained in Chapter IV of the Act of 1972 having a direct bearing on the subject matter need to be taken in comprehension; and the relevant amendments therein also need to be noticed. Chapter IV of the Act earlier carried the heading "SANCTUARIES, NATIONAL PARKS AND CLOSED AREAS", with division of the provisions under three sub-headings viz., "Sanctuaries", "National Parks" and "Closed Areas".[14] At the relevant point of time, i.e., issuance of the two notifications dated 06.03.1976 and 28.08.1978, the provisions in Sections 18 to 24, 27 and 28 of the Act of 1972, under the sub-heading "Sanctuaries", with which we are largely concerned in this appeal, had been as under:-

> *"**18. Declaration of sanctuary.-** (1) The State Government may, by notification, declare any area to be a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment[15].*
>
> ***19. Collector to determine rights.-** Whenever any area is declared to be a sanctuary, the Collector shall inquire into and determine, the existence, nature and*

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14 The main heading was substituted by Act No. 16 of 2003 and it now reads: "PROTECTED AREAS".

15 The provisions contained in Section 18(1) came to be amended by Act No. 44 of 1991 with effect from 02.10.1991. The amended provisions of Section 18(1) read as follows :-

> *"**18. Declaration of sanctuary. -** (1) The State Government may, by notification, declare its intention to constitute any area other than an area comprised within any reserve forest or the territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment."*

extent of the rights of any person in or over the land comprised within the limits of the sanctuary[16]*.*

20. Bar of accrual of rights.- *After the issue of a notification under section 18, no right shall be acquired in, on or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.*

21. Proclamation by Collector.- *When a notification has been issued under section 18, the Collector shall publish in the regional language in every town and village in or in the neighbourhood of the area comprised therein, a proclamation-*

(a) specifying, as nearly as possible, the situation and the limits of the sanctuary; and

(b) requiring any person, claiming any right mentioned in section 19, to prefer before the Collector, within two months from the date of such proclamation, a written claim in the prescribed form, specifying the nature and extent of such right with necessary details and the amount and particulars of compensation, if any, claimed in respect thereof.

22. Inquiry by Collector.- *The Collector shall, after service of the prescribed notice upon the claimant, expeditiously inquire into-*

(a) the claim preferred before him under clause (b) of section 21; and

(b) the existence of any right mentioned in section 19 and not claimed under clause (b) of section 21,

---

16 Section 19 was also amended by Act No. 44 of 1971 and the amended Section 19 reads as follows:-

> *"**19. Collector to determine rights. -** When a notification has been issued under section 18 the Collector shall inquire into, and determine, the existence, nature and extent of the rights of any person in or over the land comprised within the limits of the sanctuary."*

so far as the same may be ascertainable from the records of the State Government and the evidence of any person acquainted with the same.

23. Powers of Collector.- *For the purpose of such inquiry, the Collector may exercise the following powers, namely:-*

(a) the power to enter in or upon any land and to survey, demarcate and make a map of the same or to authorise any other officer to do so;

(b) the same powers as are vested in a civil court for the trial of suits.

24. Acquisition of rights.- *(1) In the case of a claim to a right in or over any land referred to in section 19, the Collector shall pass an order admitting or rejecting the same in whole or in part.*

(2) If such claim is admitted in whole or in part, the Collector may either-

(a) exclude such land from the limits of the proposed sanctuary, or

(b) proceed to acquire such land or rights, except where by an agreement between the owner of such land or holder of rights and the Government, the owner or holder of such rights has agreed to surrender his rights to the Government, in or over such land, and on payment of such compensation, as is proved in the Land Acquisition Act, 1894 (1 of 1894).[17]

*** *** ***

27. Restriction on entry in sanctuary. – *(1) No person other than, -*

17By the said amendment Act No. 44 of 1991, sub-clause (c) was added to Section 24 as follows: -

"(c) allow, in consultation with the Chief Wild Life Warden, the continuation of any right of any person in or over any land within the limits of the sanctuary."

(a) *a public servant on duty,*

(b) *a person who has been permitted by the Chief Wild Life Warden or the authorised officer to reside within the limits of the sanctuary,*

(c) *a person who has any right over immovable property within the limits of the sanctuary,*

(d) *a person passing through the sanctuary along a public highway, and*

(e) *the dependents of the person referred to in clause(a), clause(b) or clause (c),*

shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under section 28.

(2) Every person shall, so long as he resides in the sanctuary, be bound-

(a) *to prevent the commission, in the sanctuary, of an offence against this Act;*

(b) *where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to help in discovering and arresting the offender;*

(c) *to report the death of any wild animal and to safeguard its remains until the Chief Wild Life Warden or the authorised officer takes charge thereof;*

(d) *to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading, by any lawful means in his power, any fire within the vicinity of such sanctuary of which he has knowledge or information; and*

(e) *to assist any Forest Officer, Chief Wild Life Warden, Wild Life Warden or Police Officer demanding his aid for preventing the*

commission of any offence against this Act or in the investigation of any such offence.[18]

28. Grant of permit.- *(1) The Chief Wild Life Warden may, on application, grant to any person a permit to enter or reside in a sanctuary for all or any of the following purposes, namely:-*

(a) investigation or study of wild life and purposes ancillary or incidental thereto;

(b) photography;

(c) scientific research;

(d) tourism;

(e) transaction of lawful business with any person residing in the sanctuary.

(2) A permit to enter or reside in a sanctuary shall be issued subject to such conditions and on payment of such fee as may be prescribed".

It could at once be noticed that a few changes were brought about by the amending enactment i.e., Act No. 44 of 1991, having the effect of slightly altering the process of declaration of sanctuary. Prior to the said amendment, the notification under Section 18(1) of the Act of 1972 was of the declaration of an area to be a sanctuary whereas, after the amendment, such notification under Section 18(1) would be of declaration by the State

18 By the said Act No. 44 of 1991, sub-section (3) and sub-section (4) were inserted to Section 27 as under: -

"(3) No person shall, with intent to cause damage to any boundary-mark of a sanctuary or to cause wrongful gain as defined in the Indian Penal Code, 1860 (45 of 1860), alter, destroy, move or deface such boundary-mark.

(4) No person shall tease or molest any wild animal or litter the grounds of sanctuary."

Government of its intention to constitute an area as a sanctuary. However, the remaining part of the scheme of the provisions regarding the powers of the Collector to determine the rights; the bar over accrual of rights after issuance of notification under Section 18; issuance of proclamation by the Collector; inquiry by the Collector; and the Collector's powers for the purpose of inquiry remained essentially the same.[19]-[20]

The operation and effect of Section 20 of the Act of 1972

19 It may, however, be pointed out that in view of modification in the scheme of the process of declaration of a sanctuary, whereby, after the amendment, the notification under Section 18 is only a declaration of the intention of Government, the provisions were inserted by way of Section 26-A to the Act of 1972 to provide for the declaration of area as a sanctuary, essentially after disposal of the claims, if any made after issuance of the notification under Section 18. For the present purpose, suffice would be to take note of the principal part of sub-section (1) of Section 26-A, (while omitting the proviso and other sub-sections), as under: -

> "***26-A. Declaration of area as sanctuary.-*** *(1) When –*
>
> *(a) a notification has been issued under section 18 and the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government; or*
>
> *(b) any area comprised within any reserved forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal, floral, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary,*
>
> *the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be a sanctuary on and from such date as maybe specified in the notification:*
>
> *** *** *** "

20 It may also be pointed out that several more changes have been brought about in the scheme of these provisions in Chapter IV by way of by Act No. 16 of 2003 viz., Sections 18-A and 18-B have been inserted, providing for protection of sanctuaries and appointment of Collectors; the proclamation under Section 19 is now required to be issued within sixty days of issuance of the notification under Section 18; Section 25-A has also been inserted providing for completion of proceedings under Sections 19 to 25 within two years from the date of notification under Section 18; sub-section (3) has been substituted in Section 26-A; and Section 29 has also been substituted, prohibiting destruction, exploitation or removal of any wildlife including forest produce from a sanctuary except under and in accordance with a permit granted by the Chief Wildlife Warden. These provisions need not be dilated for being not applicable to the case at hand.

16. It is beyond the pale of doubt that in the scheme of the Act of 1972, issuance of a notification under Section 18 thereof has the peculiar and striking effect, of arresting the accrual of any right in the land comprised within the limits of the area specified in such notification except by way of testamentary or intestate succession (vide Section 20 *ibid.*). Even if the appellant was given the land in question on lease for a period of 5 years from 01.07.1972, that period came to an end on 30.06.1977. On this date of completion of the term of the lease, indisputably, the notification under Section 18(1), which was issued on 06.03.1976, was in operation and it had been the specific assertion of the appellant that the subject land was included in the said notification.[21] That being the position, there was absolutely no occasion for the appellant acquiring any further right in the land in question after expiry of the term of his lease on 30.06.1977. For this reason alone, we are clearly of the view that the so called second lease deed, said to have been executed in favour of the appellant on 20.03.1978 was of no effect. In other words, the notification under Section 18(1) having been issued on 06.03.1976 (which included the land in question as per the own assertion of the appellant), no right in the land in question could have been acquired except by succession and hence, acquiring of any right by the appellant in the subject land, said to be covered by the said notification dated 06.03.1976, by way of a lease, was absolutely out of question.

21 Even when the defendant-respondent made an uncertain attempt to suggest that the subject land was not included in the said notification under Section 18(1) of the Act, it had been the specific assertion of the appellant that it was so included and the entire matter, including the claim of the appellant, has proceeded on the basis that it was indeed included therein.

In our view, the entire substratum of the case of the appellant is knocked to the ground once it is found that the appellant had acquired no right under the said second lease dated 20.03.1978 and least any right against the State. Noteworthy it is that in all the previous litigations, initially seeking exclusion of land in question from the sanctuary; then seeking compensation for its inclusion; and then questioning its exclusion, the *Mutt* had been an active participant. In fact, the last petition seeking to question the exclusion was filed jointly by the *Mutt* and the appellant. However, the *Mutt* has not joined the claim for damages in this suit. The appellant, we have no doubt, had no right whatsoever to claim damages with reference to the alleged cause of action based on the order of exclusion dated 19.11.1993 for the reason that the alleged second lease was of no effect and the appellant had acquired no right thereunder. We may put it in yet other words that if at all the exclusion order dated 19.11.1993 furnished any right to maintain an action against the State, only and only the *Mutt* could have maintained such an action but not the appellant. The suit filed by the appellant is liable to be dismissed on this count alone.

Even if the appellant had any right, there was no infringement

17. Having found that the plaintiff-appellant did not acquire any right under the second lease and dismissal of suit at hand could be sustained on this ground alone, we may, yet, leave this aspect aside for a moment and examine the second question as to whether the right of the appellant (if any) in the subject land was infringed in the manner as to give the appellant a

cause to maintain an action for damages. Noteworthy it is that the claim for damages in the present suit is based on the assertion that the respondent-State through its officers caused prejudice and injury by preventing the appellant from entering the subject land and enjoying the usufruct thereof and then, by denying compensation for acquisition by lately excluding the subject land from the sanctuary. Such assertion of the appellant has also taken its strength from some of the observations made by the Division Bench of the High Court in its aforesaid judgment dated 18.09.1997, whereby the claim of the *Mutt* and the appellant against the exclusion order dated 19.11.1993 was rejected. In our view, there is no merit in the claim of the appellant.

The Division Bench of the High Court has noticed in the impugned judgment dated 26.02.2007, and rightly so, that even as per the admission of the PW-1, the appellant had not been dispossessed. So far as the restriction on entry is concerned, as per Section 27 of the Act of 1972, a person having any right over the immovable property within the limits of sanctuary is not debarred from entering into or residing within the sanctuary. At the most, the duties as contemplated by sub-section (2) of Section 27 are to be performed. Such duties, essentially to protect the sanctuary and its habitants, cannot be said to be leading to any debarment from exercising any legal right.

In our view, the Division Bench has rightly observed in the impugned judgment that there is nothing on record to establish that the original owner

and the plaintiff were prevented from going inside the forest and collecting the usufructs. In a comprehension of the facts on record and the law applicable, it cannot be said that the plaintiff-appellant was prevented from exercising its lawful rights in any unlawful manner by the State. Hence, there appears no basis for the appellant to maintain an action for damages.

18. There had, of course, been one instance where the appellant was denied the permission to fell the trees. That denial was made way back on 16.11.1976 and could not have furnished any cause to the appellant to maintain the claim for damages for the so called loss of earning for 22 years and for claiming other amount as per the prayers made in the plaint. Even as regards the aforesaid denial of permission to fell the trees, it could be presumed that the trees were available at the site when the area was excluded from sanctuary. Therefore, it cannot be said that the plaintiff-appellant, if having lawful right over such trees, had suffered any loss by the action of the officers of the Government.

19. For what has been discussed hereinabove, we are satisfied that the appellant had no case for claiming damages against the respondent-State. Hence, it does not appear necessary to deal with various decisions cited by learned counsel for the appellant as regards violation of right to property and the claim for damages on that count. However, one aspect of the matter as regards admission on the part of the Collector in the letter dated 28.05.1987 may be examined. There is no dispute on the fundamental principles in *Thiru John, Sushil Kumar and Standard Chartered Bank*

(supra) that an admission is the best evidence against a litigant, unless properly explained. There had not been any evidence on behalf of the defendant-respondent in this case and the aforesaid letter dated 28.05.1987 has not been denied. The question, however, is about the effect of this letter. In our view, even if the said letter, being essentially of inter-departmental correspondence, is taken on its face value, nothing much turns upon it because, as rightly observed by the High Court, there is nothing on record to indicate that the original owner and the appellant were prevented from going inside the subject land and from collecting the usufructs; and it cannot be said that the appellant was prevented in any unlawful manner by the State in exercising its lawful right (if at all the appellant had any such right).

20. For what has been discussed hereinabove, we are satisfied that the Division Bench of the High Court has rightly answered both the material questions i.e., as to whether the appellant had any right in the subject land; and if there was any such right, as to whether the same had been infringed, against the appellant in a proper manner and in accordance with law. No case for granting any decree for damages is made out.

Limitation

21. On the facts and in the circumstances of this case, the question of limitation naturally arises for consideration. If the actions of the officers of the respondent-State under the Act of 1972 at all gave rise to the claim for

damages, the matter was directly covered by Article 72 of the Limitation Act providing for the limitation of one year for such a suit, which begins to run when the act or omission takes place. Article 72 of the Limitation Act reads as under:-

For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the territories to which this Act extends.	*One year*	*When the act or omission takes place.*

In the case of *Challa Ramkrishna Reddy* (supra), this Court has pointed out that if the act or omission complained of is not alleged to be in pursuance of the statutory authority, Article 72 would not apply; and this Article would not protect a public officer acting malafide under the colour of his office. Although in the present case, there is no specific allegation of malafide against any particular officer/officers and hence, Article 72 would operate with limitation period of one year from the date of impugned action but, for the sake of argument, we may assume that the residuary Article 113, providing for the limitation of three years from the time when the right to sue accrues may apply to the suit at hand. We may further assume that the order dated 19.11.1993 gave a right to sue. Even then, the suit filed on 08.06.1998 was much beyond the period of limitation.

The appellant, therefore, referred to and relied upon Section 14 of the Limitation Act and the observations made by the High Court in the judgment dated 18.09.1997. So far the observations by the High Court in the said judgment are concerned, it is but apparent that the Division Bench of High Court could not have, and did not, finally pronounce that the time spent in the said writ matter would be excluded under Section 14. The Division Bench only left it open that such a ground may be raised in the claim for compensation. When raised, the ground was obviously required to be examined on its own merits.

It is noticed that the learned Single Judge, while dealing with issue No. 2 in the suit, proceeded in a wholly cursory manner, inasmuch as after referring to the observations in the judgment 18.09.1997 and then to the contentions of parties, the learned Judge straight away observed that he would disagree with the defendant without specifying any reason; and stated the conclusion that the suit was filed within time. The Division Bench, on the other hand, pointed out its *prima facie* doubts on the applicability of Section 14 of the Limitation Act but did not decide the question of limitation, as the claim was being negatived on merits. Having regard to the subject matter, it appears appropriate to deal with this issue and to point out as to why Section 14 would not apply.

Section 14 is one such provision in the Limitation Act that provides for exclusion of the time spent in prosecuting one civil proceeding *bona fide* in a Court not having jurisdiction, while computing limitation in any suit where

the matter in issue is same as that of the earlier proceeding. The heading of this provision and sub-section (1) thereof may be extracted as under:

> *"**14. Exclusion of time of proceeding** **bona fide** **in court without jurisdiction**.-(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature is unable to entertain it."*

We may usefully refer to the relevant decisions pointing out the basic requirements for applicability of Section 14 of the Limitation Act. In the case of ***Madhavrao Narayanarao Patwardhan v. Ramkrishna Govind Bhanu and Ors.*****: AIR 1958 SC 767,** this Court pointed out the requirements on plaintiff for the purpose of Section 14 in the following:-

> "6*. …..In order to bring his case within the section quoted above, the plaintiff has to show affirmatively:*
>
> *(1) that he had been prosecuting with due diligence the previous suit in the court of the Munsif at Miraj.*
> *(2) that the previous suit was founded upon the same cause of action,*
> *(3) that it had been prosecuted in good faith in that court, and*
> *(4) that that court was unable to entertain that suit on account of defect of jurisdiction or other cause of a like nature "*

Further, in the case of ***Zafar Khan and Ors. v. Board of Revenue, U.P. and Ors.*****: 1984 (Supp) SCC 505,** this Court pointed out thus:

> *"13. In order to attract the application of Section 14(1), the parties seeking its benefit must satisfy the court that : (i) that the party as the plaintiff was prosecuting another civil proceeding with due diligence; (ii) that the earlier proceeding and the later proceeding relate to the same matter in issue, and (iii) the former proceeding was being prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, in unable to entertain it. "*

In *Yeshwant Deorao* (supra)**,** this Court held that there can be no exclusion under Section 14 of the Limitation Act of the time spent in insolvency proceedings against the judgment debtor, in computing the period of limitation for executing a decree against him, as the two proceedings were not for obtaining the same relief. This Court said,-

> *"5............ The relief sought in insolvency is obviously different from the relief sought in the execution application. In the former, an adjudication of the debtor as insolvent is sought as preliminary to the vesting of all his estate and the administration of it by the Official Receiver or the Official Assignee, as the same may be, for the benefit of all the creditors; but in the latter, the money due is sought to be realized for the benefit of the decree-holder alone, by processes like attachment of property and arrest of person. It may be that ultimately in the insolvency proceedings the decree-holder may be able to realize his debt wholly or in part, but this is a mere consequence or result. Not only is the relief of a different nature in the two proceedings but the procedure is also widely divergent."*

We may also refer to a Division Bench decision of the Nagpur High Court in ***Kashinath Shankarappa v. The New Akot Cotton Ginning and Pressing Co. Ltd.*****: AIR 1951 Nagpur 255** wherein, on the question as to whether in an action for recovery of debt in the civil Court, the time spent in

the winding up proceeding could be excluded, the High Court answered in the negative thus:

> *"28. The grounds on which a company can be wound up are set out in S. 162, Companies Act. There are number of them. Even if it be assumed that the application was under S. 162(v), namely, that the company was unable to pay its debts S. 163(1) shows that the expression "unable to pay its debts" embraces three distinct concepts. There is nothing to show that the application was confined to this particular debt. But even if it was, the cause of action in winding up proceedings under S. 163(1) is the inability of the company to pay its debts and not as here, as the recovery of the debt. The question of recovery does not arise until the winding up order has been made and a liquidator appointed. It is at that stage that the claims against the company are enquired into and decided. Therefore the cause of action in those proceedings and the cause of action here were not the same. It follows that S. 14 is not attracted."*

The decisions referred by learned counsel for the appellant had been of different situations. In *Rameshwarlal* (supra), the claim was of salary by the petitioner that was not entertained in the writ petition on the ground that the claim was recoverable in civil action and the civil suit was filed thereafter. This Court indicated the normal principle that the Court dealing with the matter in the first instance must be found lacking jurisdiction or other cause of like nature to entertain the matter but then, found that in the proceedings under Article 226 of the Constitution of India, the High Court had expressly declined to grant relief while relegating the petitioner to a suit in the civil Court. In the given circumstances, this Court observed that the petitioner could not be left

remediless. In the case of *Shring Construction Co.* (supra), the arbitration award was initially sought to be challenged by way of a writ petition that was dismissed as being not maintainable on the ground that the award ought to have been challenged under Section 34 of the Arbitration and Conciliation Act, 1996. Then, the District Judge dismissed the application under Section 34 of the said Act of 1996 for being barred by time. This Court found that applicability of Section 14 of the Limitation Act was not excluded from the said Act of 1996 and hence, the matter was remitted to the District Judge to examine if the period spent by the appellant in prosecuting remedy before the High Court could be excluded.

The common thread running through all the decisions above referred is that for the applicability of Section 14 of the Limitation Act and exclusion of the time spent in earlier proceeding, the matter in issue in both the earlier and the later proceeding must be the same. This is apart from the other requirements that the previous proceeding had been civil proceeding, which were being prosecuted by the plaintiff with due diligence and in a Court which, from the defect of jurisdiction or other cause of like nature, was unable to entertain the same though the plaintiff had been prosecuting in that Court in good faith.

In the present case, except the fact that the earlier writ petition in challenge to the exclusion order dated 19.11.1993 was civil proceeding and the plaintiff might have been prosecuting with due diligence, none of the other requirements of Section 14 of the Limitation Act are satisfied.

The basic requirement, that the matter in issue in the earlier and the later proceeding ought to be the same; and both the proceedings, earlier and later, ought to relate to the same cause of action and for the same relief, is totally missing. Rather, the matter in issue in the earlier proceeding could well be contradistinguished from the matter in issue in the present suit. In the said earlier proceeding, the plaintiff-appellant joined the *Mutt* to assert that the respondent-State was not entitled to exclude the land in question from sanctuary; and that the State ought to take the land and ought to pay compensation as proposed by some of its officers. On the other hand, the claim in the present suit is founded on the ground that the plaintiff has suffered loss due to the proceedings under the Act of 1972 and then, due to exclusion of the subject land from acquisition. The relief claimed in the present suit and matter in issue herein cannot be said to be the same as had been in issue in the earlier proceeding i.e., the said writ petition against the exclusion order dated 19.11.1993. Apart from the fact that the earlier proceeding i.e., the said writ petition was for a different relief for quashing the exclusion order dated 19.11.1993, it is also pertinent that the said writ petition was dismissed on merit and not for want of jurisdiction. Applicability of Section 14 of the Limitation Act is totally ruled out in this case.

We may also observe that if the said order dated 19.11.1993 had at all given any cause to the appellant to claim damages/compensation, the limitation had begun to run from that date itself and the said proceeding in

the writ petition had never arrested such running of limitation. The learned counsel for the appellant has submitted that the said order dated 19.11.1993 was quashed by the learned Single Judge on 13.09.1995 and came to be resurrected only when the Division Bench allowed the appeal of the State on 18.09.1997 and therefore, limitation would run from the date of judgment of the Division Bench. This proposition, at the first blush, appeared attractive but cannot be accepted on a closer look at the matter. The filing of writ petition or any order passed therein did not operate in arresting limitation that had begun to run on 19.11.1993, so far the right to sue for damages is concerned. The plaintiff-appellant consciously chose not to claim damages in the wake of the order dated 19.11.1993 and, instead, joined the *Mutt* to seek the relief that the said order dated 19.11.1993 be quashed and the land be not excluded from sanctuary. Having failed in such an attempt, the appellant could not have maintained the claim for damages, by filing a suit in the year 1998.

The observations of the Division Bench in the order dated 18.09.1997, suggesting as if the time spent in the said petition could readily be excluded are of no effect because the Division Bench, while dealing with the said writ matter, could not have decided the issue of limitation in the suit in anticipation. Some of the expressions of conclusive nature, as used by the Division Bench in the judgment dated 18.09.1997, were rather unwarranted and in any case, could not have made the question of limitation in relation to the suit for damage *fait accompli*. We

say no more because, read as a whole, the said judgment dated 18.09.1997, cannot be taken to be of final conclusion as regards the applicability of Section 14 to the future action. As noticed, Section 14 of the Limitation Act does not apply to the present suit; and, for being otherwise barred by limitation, the suit is liable to be dismissed on this ground alone.

22. We may also observe that so far as the denial of felling the trees by the order dated 16.11.1976 is concerned, if the plaintiff-appellant at all had any right to make a claim for damages on that score, the same ought to have been made within limitation from that date. The relief in that regard could not have been claimed by way of a suit filed more than 20 years later.

CONCLUSION

23. The upshot of the discussion aforesaid is that the suit filed by the plaintiff-appellant was barred by limitation and even otherwise, the plaintiff-appellant had no case on merits to claim damages from the respondent-State. The Division Bench of the High Court has rightly allowed the appeal filed by the State and has rightly dismissed the baseless suit filed by the appellant.

24. Accordingly and in view of the above, this appeal stands dismissed. In the circumstances of the case, the parties are left to bear their own costs throughout.

…………………………………………J.
(ABHAY MANOHAR SAPRE)

…………………………………………J.
(DINESH MAHESHWARI)

New Delhi,
Date: 20th August, 2019.