

ORDER SHEET

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

IInd Appeal No. 29 of 2012

DATE

ORDER WITH SIGNATURE OF JUDGE

28.08.2023.

FOR HEARING OF MAIN CASE.

None present for the appellant.

Mr. Rafique Ahmed Dahri A.A.G. along with Mukhtiar Ali Mirbahar
Divisional Forest Officer Afforestation Division Dadu.

A suit for declaration and injunction in respect of an impugned notice issued by the Forest Department was challenged with further declaration that the contract executed between the plaintiff / appellant and the Forest Department stand cancelled (rescinded and extinguished). There is an amount of more than 1,52,000/- recoverable and the Forest Department is holding a security of only 10,000/-. The dispute is of 1970-71 when after issuance of notices a suit was filed in the Court of Senior Civil Judge Hyderabad as Suit No.10 of 1972 challenging the said notice. It was disposed by a Judgment and Decree of IInd Senior Civil Judge Hyderabad by virtue of an order of 21 February 2011 i.e. after a period of 41 years. The conclusion drawn by the Senior Civil Judge was that the plaintiff / appellant therein was unable to establish that the contract was rescinded and / or cancelled in view of the purported defence i.e. the dacoity that took place at site.

The Conservator Forest Hyderabad offered to sell 230 stacks of timber in the form of standing trees in the Kati Laila Forest Compartment No.12 in an area of about 160 acres situated in District Dadu offered through public auction. Appellant / Plaintiff claimed to have lifted 150 stacks of timber for which requisite amount claimed to have been paid but later he lifted the stacks but did not pay the amount on the above defence.

The appellant failed to prove his case and no lawful excuses for not paying the outstanding amount was made.

The issues were decided against him after 41 years. He then filed an appeal bearing No.89 of 2011 which was decided on 05.10.2012. Till date the Forest Department has not been able to recover the outstanding amount and facing trial of the suit. Forest Department only holding a security of Rs.10,000/-. Mr. Mukhtiar Ali Mirbahar Divisional Forest Officer has appeared and submit that they would now initiate proceedings for the recovery and an appropriate order as deemed fit and proper by the Forest Department, shall be passed.

On the first date of hearing i.e. 14th February 2018 the appellant did not appear and on the next date i.e. 11.01.2021 one Abdul Azeem Advocate held brief when notices were ordered by this Court. I have perused the memo of IInd Appeal and found no ground that could justify any interference. Since the appellant has failed to assist this Court otherwise I deem it appropriate to dismiss it.

JUDGE

A.