IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 10TH DAY OF NOVEMBER, 2021

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

WRIT PETITION NO.18781 OF 2021(GM-FOR)

BETWEEN:

RAJENDRA H R,
SON OF SRI.RAMDAS NAIK,
AGED ABOUT 55 YEARS,
R/O 16/1. MIC 1ST CROSS,
KHB COLONY, SOPPINA GUDDA,
THIRTHAHALLI – 577 432.

...PETITIONER

(BY SRI. K SREEDHAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
   REPRESENTED BY THE SECRETARY,
   FOREST DEPARTMENT,
   VIKAS SOUDHA, VIDHANA VEEDHI,
   DR. AMBEDKAR ROAD,
   BENGALURU – 560 001.

2. DEPUTY CONSERVATOR OF FOREST,
   SHIMOGA – 577 201.

3. ASSISTANT CONSERVATOR OF FOREST,
   AZAD ROAD,
   THIRTHAHALLI – 577 432.

4. RANGE FOREST OFFICER,
   THIRTHAHALLI RANGE,
   THIRTHAHALLI – 577 432

... RESPONDENTS

(BY SRI. VINOD KUMAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-4 TO GRANT PERMISSION TO FELL THE TREES STANDING IN THE LAND BELONGING TO THE PETITIONER IN SURVEY NO.41 OF HOSAKODIGE VILLAGE, KASABA HOBLI,

THIRTHAHALLI TALUK, SHIVAMOGGA DISTRICT AS PER JOINT SURVEY REPORT OF REVENUE DEPARTMENT AND FOREST DEPARTMENT AND ALSO ON THE BASIS OF REVENUE RECORDS SUBMITTED BY THE PETITIONER.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The short grievance of the petitioner is as to non-consideration of his request for permission of felling the trees in question; learned counsel for the petitioner vehemently submits that he consideration of the request has not taken place with one or the other pretext; he also points out from the notice dated 02.11.220 at Annexure-L that the third respondent Assistant Conservator of Forests (for short 'ACF' hereafter) has directed personal appearance of the Tahsildar to assist in the process of consideration and this is unjustified.

2. After service of notice, the respondents having entered appearance through the learned AGA oppose the writ petition contending that the request for felling of the trees cannot be readily granted; the Apex Court in **T.N. GODAVARMAN THIRUMULKPAD VS. UNION OF INDIA & ORS**, (1997) 2 SCC 267 and in other series of decisions therein has laid down certain parameters applicable to the

consideration of request of the kind and accordingly the matter could be processed and decision would be made known to the petitioner. This is fair enough.

3. Learned AGA graciously & rightly submits that the third respondent- ACF would not have directed the personal appearance of the Tahsildar for the participation in the proceedings of the kind; since it is not a case of trial by jury; the parameters of enquiry are already indicted by the Apex Court; there was absolutely no warrant for the third respondent – ACF to direct personal appearance of the Tahsildar at all; although he can summon the records.

In the above circumstances, this writ petition is disposed off directing the third respondent to consider petitioner's request for the grant of permission to fell the trees in question keeping in view the provisions of Section 8 of the Karnataka Preservation of Trees Act, 1976 and the Joint Survey Report, a copy whereof is at Annexure-E.

This exercise shall be accomplished within a period of eight weeks from the date a copy of this judgment is handed to the answering respondent; failing which, the third respondent –ACF shall pay to the petitioner a cost of

Rs.5,000/- per day of delay brooked; he shall also inform the petitioner the result of such consideration, forthwith.

All contentions are kept open.

Now, no costs.

Sd/-
JUDGE

Bsv