

CLCON No. 65 of 2023

Hon'ble Ravindra Maithani, J.

Mr. Abhijay Negi, Advocate for the petitioner.

Mr. J.S. Bisht, Standing Counsel for the State.

Heard.

The petitioner has brought to the notice of the Court that the judgment and order dated 16.09.2022 passed in WPPIL No. 68 of 2022, Ashish Kumar Garg Vs. State of Uttarakhand and another has been wilfully disobeyed by the respondent/State.

It is a case of widening of a road and cutting of trees in a large number.

Learned counsel appearing for the petitioner would refer to paras 55 and 56 of the judgment to argue that, in fact, the Court had granted permission to shift the trees and use the words "transplant the fully grown trees". It would be apt to reproduce paras 55 and 56 of the judgment. They are as follows:-

"55. It appears that the State does not have, and is not deploying the equipment, such as cranes devised for transporting the uprooted trees with their roots, from one place to another, as is shown to be done in the NCT of Delhi. The State would do better by procuring the necessary equipment without any delay, so that the transplantation of the trees in the State can be undertaken in a more scientific way. The trees, which have been transplanted, would take a long time to develop branches. However, if the tree could be transplanted without cutting down the branches, or, at least, while retaining some of them, it would certainly increase their chances of survival, 34 and would also enable the tree to serve the environmental needs faster.

56. We are, therefore, inclined to direct the State to buy the necessary equipment, for transplantation of the fully grown trees, positively within the next four months. However, since the work of expansion of the road in question has already commenced, and appears to be necessary to meet the urgent needs of smooth flow of traffic, we are inclined to permit the transplantation of the trees, though under the supervision of the experts of the F.R.I., Dehradun. The F.R.I., Dehradun shall nominate at least two experts, who shall be

involved at every stage of transplantation of the fully grown trees, i.e. from the uprooting of the trees; to its transportation; thereafter, to their re-transplantation, and; their upkeep till they stabilize at their new location. The transplanted trees should be given necessary treatment for the injury caused to them in the process of relocation, to prevent them getting infected. The respondents shall ensure compliance with the instructions and advice rendered by the experts from F.R.I. in all such matters of transplantation/ treatment of trees. The suitability of the area, where the transplantation of the trees is being undertaken, shall also be examined and certified by the experts of the F.R.I, Dehradun.”

Learned counsel for the petitioner would also invites the Court’s attention to Annexure 2, the photographs to argue that, in fact, the branches of the fruit bearing trees have been cut by the respondents.

The Annexure 2, the photographs reveals that, in fact, the trees were cut indiscriminately. They were not transplanted.

It is a matter pertaining to maintaining the ecology of the area, particularly of the Shivalik Hills. The Court had directed for transplantation of the trees, which means uprooting them with mechanical devices and placing them at some place so that they may still grow.

Admit.

Issue notice to the respondent nos. 1 and 2. They both shall file their personal affidavit.

List this matter on 20.12.2023.

Apart from responding to the averments made in the contempt petition, on the following points also reference shall be made by the respondent no.1 and 2:-

- (i) When did the mechanical devices were purchased for transplanting the fully grown trees?
- (ii) Who from the Forest Research Institute assisted the respondents

in uprooting and transplanting the trees?

- (iii) How many trees were transplanted?
- (iv) Where have they been transplanted?
- (v) When were they transplanted?
- (vi) What is the condition now?

The above information shall be supported with photographs as well as the videographs.

If required, the Court would approach the Director, Forest Research Institute, Dehradun to assist in the matter.

(Ravindra Maithani, J.)

01.11.2023