



2026:AHC-LKO:24949-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1898 of 2026

Udasa and 106 others

.....Petitioner(s)

Versus

Union of India, Thru. the Secy. Ministry of Tribal Affairs New Delhi and 5 others

.....Respondent(s)

Counsel for Petitioner(s)	: Nandini Verma, Desh Deepak Singh, Rajat Srivastava
Counsel for Respondent(s)	: A.S.G.I., C.S.C.

Court No. – 3

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

1. Heard learned counsel appearing on behalf of the parties.
2. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner has prayed for the following substantial relief(s):

"i. Issue a writ, order or direction in the nature of writ or certiorari quashing the order dated 15.03.2021 passed by the District Level Committee annexed as Annexure No.1 to this writ petition.

ii. Issue a writ, order or direction in the nature of writ of mandamus commanding the District Level Committee, District Lakhimpur Kheri, to reconsider and decide the claim for community forest rights of the petitioners afresh, in a time bound manner and in accordance with the provisions of the Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Schedule Tribe and Other

Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 (as amended by the Rules of 2012).

iii. Issue a writ, order or direction in the nature of writ of mandamus commanding the State Level Monitoring Committee to perform its functions in accordance with the provisions of the Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 (as amended by the Rules of 2012) in the process of recognition, verification, and vesting of the rights to community forest resources."

3. Learned counsel appearing on behalf of the petitioners has placed reliance on Sections 3(a), 3(b), 3(c), 4 and 6 of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as "the Act") to buttress her arguments that the Act is for the benefit of the Schedule Tribes and other traditional forest dwellers, who are dwelling in the forest areas. She submits that these rights as per Section 3 of the Act include the community rights relating to rights of ownership, access to collect, use and dispose of minor forest produce including the jalauni lakadi and reeds, which have been traditionally collected within or outside of the village boundary. She submits that the Hon'ble Supreme Court judgement that has been relied in the impugned order was passed in the year 2000 and was in reference to the Forest (Conservation) Act, 1980. She submits that the impugned order does not take into account the factum of the Act overriding the interim order passed by the Hon'ble Supreme Court in W.P. No.337 of 1995.

4. Furthermore, she relies on a Circular No.23011/33/2010-FRA dated 08.11.2013, wherein certain clarifications have been issued to all the State Governments/UT Administrations. The relevant part of the Circular is delineated herein-below:

Sl.No.	Issue	Clarification
1.	Whether the provisions of the Forest Rights Act, 2006 supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble Supreme Court judgment dated	It is a well settled principle of statutory interpretation that a subsequent statute supersedes all preceding court judgments or orders of prior date. Section 4(1) of the Forest Rights Act, 2006, which recognizes and vests forest rights in the

13.11.2000 in I.A.No.2 in WP NO.337/1995	<p>forest dwelling Scheduled Tribes in the States or areas in States where they are declared as Scheduled Tribes and the other traditional forest dwellers, lays down that the forest rights under Section 3(1) of the Act, including the right under Section 3(1)(h), are recognized and vested in the forest dwelling Scheduled Tribes and other traditional forest dwellers "notwithstanding anything contained in any other law for the time being in force". This non-obstante clause, therefore, recognizes and vests the forest rights under Section 3(1) in accordance with the provisions of the FRA regardless of whether such forest rights might be contrary to other laws, which includes statutory law as well as judicial precedent, if any.</p> <p>Further, Section 4(7) of the Act provides that the forest rights under the said Act shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in the said Act. The plain meaning of this provision is that recognition and vesting of all forest rights, including the settlement and conversion of forest villages and other such villages into revenue villages under Section 3(1)(h), has been exempted from the requirements of Section 2 of the Forest (Conservation) Act, 1980, as well as the requirement of compensatory afforestation as well as payment of net present value.</p> <p>After operationalization of the Forest Rights Act, 2006 with effect from 31.12.2007, the interim order dated 13.11.2000 of the Apex Court in I.A.No.2 in WP NO.337/1995, which was passed in the context of the widespread violation of the provisions of the Forest (Conservation) Act, 1980 would, therefore, be guided by the provisions of Section 3(1)(h) of the FRA, 2006 and that the forest right relating to conversion of forest villages and other such villages into revenue villages under this Section has also to be vested and recognised as per the laid down procedure, like any other forest right specified in Section 3 (1) of the Act.</p>
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5. Per contra, learned counsel appearing on behalf of the respondent has supported the impugned order stating that the Hon'ble Supreme Court

judgement has been referred to in the said order, and accordingly, the claim of the petitioners has been rejected.

6. We have given a patient hearing to counsel for both the sides. Upon a perusal of the objects and reasons of the Act, one would see that the same is for furtherance of the forest rights of the forest dwellers. The preamble of the Act is set out herein:-

"An Act to recognise and vest the forest and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded: to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

Whereas the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

And whereas the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

And whereas it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions."

7. Section 2(c) of the Act defines "forest dwelling Scheduled Tribes" to mean members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities. Admittedly, the petitioners are residents of village-Sariyapara, Tehsil- Palia Kalan, District- Lakhimpur and belong to the "Tharu" community, which has been notified as Scheduled Tribes by notification dated 24.06.1967, issued under Article 342 of the

Constitution of India and are ‘forest dwelling Scheduled Tribes’ within the meaning of the said provision.

8. Further, we see that the primary objective to be achieved by the Act is not only limited to recognizing and vesting the forest and occupation in forest land to these forest dwelling Scheduled Tribes but also to ensure their livelihood and food security.

9. It is in furtherance to the aforesaid objective that Section 3 of the Act provides for specific forest rights, which are available to such forest dwelling Scheduled Tribes and other traditional forest dwellers. Section 3 bestows on these forest dwellers various rights enumerated from Section 3(a) to 3(m) of the Act and a facial reading of these sections would show that these provisions also includes a right to collect and use of minor forest produce for their livelihood. Section 3(a), 3(b) and 3(c) of the Act relied by the petitioners requires specific mention and are being extracted as herein-below:-

“3. Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers.—(1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;”

10. It is to be further noted that Section 4 of the Act specifically deals with recognition and vesting of the forest rights as defined under Section 3 of the Act upon the forest dwellers. This Section begins with a non-obstante clause, wherein it states that notwithstanding anything contained in any other law for the time being in force and subject to the provisions of this Act, the Central Government recognizes and vests

forest rights in the forest dwelling Scheduled Tribes in States in respect of all forest rights mentioned in Section 3 of the Act.

11. Thus, keeping in mind the above provisions, it is patently clearly that the forest dwellers, who have been living for centuries in these forests, have been specifically provided the forest rights as mentioned in Section 3 of the Act and such rights have been vested upon them by virtue of Section 4 of the Act. Apparently, it seems that with the enactment of the Act, the legislature in its wisdom has not created any new rights for these forest dwellers, rather has recognized the existing rights and occupation of these people, who had been traditionally restricted to this place of dwelling in forest owing to various reasons. The said fact is further fortified from the use of the language in the objects appended to this Act, which starts with the words “*An Act to recognize and vest.....*”.

12. According to this Court, the object clearly demonstrates the scope and specific purpose behind its enactment. Time and again, it has been held by this Court that the true character of a law must be ascertained by its object, purpose and context. The District Level Committee has been given sweeping powers under the Act, inasmuch as Section 6(6) of the Act provides that a decision of the said Committee shall be final and binding on the records of the forest right. We do not find any plausible reason as to why the Committee ought not to have made an assessment of the forest rights of the forest dwellers, without taking into account the object and scope behind the Act..

13. Having, discussed the object and scope behind the enactment of the ‘Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006’, we find ourselves in total disagreement with the impugned order. Although the impugned order has been passed on 15.03.2021, however we find that the Authority concerned has neither discussed nor appreciated the specific intent of the Act and has presumably short-circuited the existing rights of the petitioners by relying on an interim order of the Hon’ble Supreme Court, without even

discussing as to whether the said interim order is applicable to the petitioners in the present facts and circumstances or not.

14. Thus, we hold that the impugned order, in our view, has not taken into account the relevant provisions of the Act and has only dealt with the Hon'ble Supreme Court interim order that was passed in the year 2000, previous to enactment of the Act.

15. In light of the same, the impugned order dated 15.03.2021 is quashed and set aside with a direction upon the authorities to grant an opportunity of hearing to the petitioners and/or their representatives, and thereafter, pass a reasoned order in accordance with law. The authority concerned shall be at liberty for requisition of all such records, which may be necessary for adjudication of the rights of the petitioners, including the latest judgement/order passed by the Hon'ble Supreme Court, if any, for arriving at a fair, legal and proper decision, keeping in mind the object to be achieved under the Act.

16. Keeping in view the peculiar facts and circumstances of the present case, wherein livelihood of the forest dwelling Scheduled Tribes has been adversely effected, we provide that till such time the order is passed by the District Level Committee, the forest dwellers shall be vested with all their existing rights as enumerated in the Act, in accordance with law.

17. With the above directions, the writ petition is disposed of.

(Abdhesh Kumar Chaudhary,J.) (Shekhar B. Saraf,J.)

April 09, 2026

Ashutosh