

2025 LiveLaw (SC) 995

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

PAMIDIGHANTAM SRI NARASIMHA; J., ATUL S. CHANDURKAR; J.

Civil Appeal No(s). 2590/2019; SEPTEMBER 23, 2025

SUGRA ADIWASI & ORS. *versus* PATHRANAND & ORS.

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA); Section 3(2) - Forest (Conservation) Act, 1980 (FCA) - Basic Housing for Forest Dwellers - Whether the construction of a pakka (permanent) dwelling house for a forest dweller is an exempted facility under Section 3(2) of the FRA, thereby overriding the requirement for prior approval under the FCA – Held, Section 3(2) is a limited exception - Section 3(2) of the FRA, which contains a non-obstante clause, provides an exemption from the mandate of the Forest (Conservation) Act, 1980 (FCA), but this exemption is strictly limited to the facilities specifically provided therein and to activities undertaken by the Government - Exemption does not include pakka houses - The construction of a pakka dwelling house is not included in the list of exempted activities/facilities specified under Section 3(2) of the FRA - Duty to Balance Rights and Conservation - The issue requires the Court to balance the important value of providing minimum basic housing to forest dwellers with the State's and citizen's obligation to protect the national forest resource - Direction to Government for Mechanism - Since pakka housing is not covered by the Section 3(2) exemption, the Supreme Court directed the Union of India (through the Ministry of Tribal Affairs and the Ministry of Environment, Forest and Climate Change) to file an affidavit setting out the mechanism or policy that the Government proposes to frame to address the need for basic housing for forest dwellers while ensuring full compliance with the mandate of the FCA. [Paras 4-6]

WITH CONMT. PET. (C) No. 554/2022 in C.A. No. 2590/2019

For Appellant(s): Mr. Gaurav Agarwal, Sr. Adv. Mr. Pradeep Misra, AOR Mr. Daleep Dhyani, Adv. Ms. Anitha Shenoy, Sr. Adv. Ms. K. V. Bharathi Upadhyaya, AOR Ms. Sadhana Madhavan, Adv. Ms. Kavana Rao, Adv. Ms. Pritama, Adv.

For Respondent(s): Mr. Gaurav Agarwal, Sr. Adv. Mr. Pradeep Misra, AOR Mr. Daleep Dhyani, Adv. Mr. Suraj Singh, Adv. Mr. V.V.V. Pattabhiram, D.A.G. Ms. Mrinal Gopal Elker, AOR Mr. Mukesh Kumar Verma, Adv. Ms. Chhavi Khandelwal, Adv. Ms. Aishwarya Bhati, A.S.G. Mr. Gurmeet Singh Makker, AOR Ms. Ruchi Kohli, Adv. Mr. Bhuvan Kapoor, Adv. Ms. Chitrangda Rastravara, Adv. Mr. Rohan Gupta, Adv. Mr. Raman Yadav, Adv. Mrs. Aishwarya Bhati, A.S.G. Ruchi Kohli, Adv. Bhuvan Kapoor, Adv. Chitrangda Rastravara, Adv. Raman Yadav, Adv. Brajesh Kumar, Adv. Shivika Mehra, Adv. Dr. N. Visakamurthy, AOR

ORDER

1. The issue that arises for consideration is a matter of great importance, for it requires the court to balance two important values; first, to provide minimum basic housing even to those who are forest dwellers, and the second, obligation of State and its citizenry to protect the national forest resource.

2. While Section 4 of the Forest Rights Act, 2006 recognises and vests certain forest rights on the forest dwellers, Section 3, in turn, delineates what those forest rights are. Sub-section (2) of Section 3 empowers the Government to provide certain specified facilities to the forest dwellers, notwithstanding the mandate under the Forest (Conservation) Act, 1980. This exemption under Section 3(2) is only for activities

undertaken by the Government, and more importantly it is restricted to activities that are specifically provided therein. This does not include construction of a *pakka* dwelling house.

3. Ms. Anitha Shenoy, learned senior counsel appearing for the petitioner(s), who are declared as forest dwellers and Ms. Aishwarya Bhati, learned ASG appearing for respondent(s) have submitted that the purpose and the object of the Forest Rights Act, recognizing the rights of forest dwellers should be interpreted in a manner that would enable them to raise and construct a safe and a habitable *pakka* house within the forest, which is a minimal intrusive non-forest activity.

4. We are of the opinion that even assuming that State can permit a minimalistic measure to build a *pakka* house for forest dwellers, the real question is whether such a measure could be notwithstanding the regulatory mandate of Forest Conservation Act, 1980. The Forest Conservation Act 1980, in our opinion, should not be treated as a law which prohibits certain activities, for it is a legislative measure that introduces the value of regulation and monitoring of non-forest activity within the forest. This is absolutely necessary for safe and good governance of our forest resources.

5. It is therefore necessary to develop and evolve a system where there is a convergence in the working of the Forest Rights Act on the one hand and the Forest Conservation Act on the other. These legislations can supplement and complement one another and can be implemented benefiting the forest dwellers, as they are so inextricably connected to the forest, and at the same time regulate non-forest activity in the forest.

6. We direct that the MOEF&CC and Ministry of Tribal Affairs to hold detailed consultations and file an affidavit indicating the scope, method and manner of enabling construction of dwelling houses (under the scheme) within the forest, keeping in mind the mandate of Forest Conservation Act, 1980.

7. The affidavit shall be filed within a period of four weeks. List immediately thereafter.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)