

**GOVERNMENT OF ANDHRA PRADESH  
FOREST DEPARTMENT**

Ref.no.4581/2018/legal cell,  
Dt: 17-04-2018.

O/o Prl. Chief Conservator of Forests(HoFF)  
Andhra Pradesh, Guntur

Sri. P. Mallikharjuna Rao, IFS  
Principal Chief Conservator of Forest  
(Head of Forest Force)(FAC)

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**CIRCULAR NO. 04 /2018**

Sub:- Law – latest order of Supreme Court of India on continuation of stay in Civil/Criminal cases – restriction imposed – follow up action to be taken- regarding.

Ref: Orders of Hon'ble Supreme Court of India dated 28.03.2018

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There are number of civil/criminal cases filed by the Department or by interested parties and immediately after filing of the cases, the Courts generally give orders 'staying' the matter in question until further orders. And in land cases, it is the practice that interim orders are obtained in the form of 'status quo' or 'not to dispossess the petitioner till disposal of the case' and the cases remain pending decades and the valuable forest land remains in the hands of private persons, who may not have any proper legal title to the land.

The Honourable Supreme Court in the case of *Asian Resurfacing of Road Agency Pvt Ltd & Anr vs Central Bureau of Investigation* ( Criminal Appeals nos.1375-1376 of 2013) **has passed orders limiting the validity of stay granted for six months only**, and beyond six months the same has to be renewed after six months. The operative portion of the order is as follows:

*"35.In view of the above, situation of proceedings remaining pending for long on account of stay needs to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are not taken up. In an attempt to remedy this situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating ,the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial Court where order of stay of Civil or Criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence unless order of extension of stay is produced.*

36. Thus, we declare the law to be that order framing charge is not purely an interlocutory order not a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C. or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re-appreciate the matter. Even where such challenge is entertained and stay is granted, the matter must be decided on day-to-day basis so that stay does not operate for an unduly long period. Though no mandatory time limit may be fixed, the decision may not exceed two-three months normally. If it remains pending longer, duration of stay

should not exceed six months, unless extension is granted by a specific speaking order, as already indicated. Mandate of speedy justice applies to the PC Act cases as well as other cases where at trial stage proceedings are stayed by the higher court i.e. the High Court or a court below the High Courts or other courts relating to PC Act or all other civil or criminal cases, where stay of proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order on above parameters. Same course may also be adopted by civil and criminal appellate/revisional courts under the jurisdiction of the High Courts. The trial courts may, on expiry of above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced.

37. The High Courts may also issue instructions to this effect and monitor the same so that civil or criminal proceedings do not remain pending for unduly period at the trial stage”.

The orders of the Hon'ble Supreme Court of India were delivered on 28-03-2018 and any interim stay granted in any Civil/Criminal matters would be in force for six months only, i.e. till September, 2018. Therefore all the officers in the address entry are directed to list out all the cases where stay has been granted by any Court and after September, 2018, and in cases where further extension of stay as prescribed by the Hon'ble Supreme Court of India is not received, the officers may take further action in the cases concerned, as if no stay orders are existing.

Sd/- P.Mallikharjuna Rao

Prl.Chief Conservator of Forests  
(Head of Forest Force)

To

1. All the DFOs in the State
2. All the CCFs/CFs in the State
3. All the Officers in Aranya Bhavan, Guntur
4. All the Superintendents in Aranya Bhavan, Guntur

//t.c.b.o.//

Superintendent 3/5/18 ✓

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