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(walnut bark) in a truck, on 24-01-2020; the case was registered at serial no. 07 of First Information Report book no.3, dated 24-01-2020. Subsequently, the Forest officials obtained fine of Rs. 50,100/- (through form FD.14-E, dated 25-01-2020). The petitioner and the truck were released, however, the forest produce (*dandasa*) was confiscated. The said forest produce is presently stated to be advertised for auction by Forest Department.

4. The petitioner filed an application before the learned Forest Magistrate for return of *dandasa* (forest produce), which was turned down on the ground that the said forest produce was protected and prohibited article; and further that u/s 6 of KP Compensation for Forest Offences and Value of case Property Rules, 2014, the said forest produce shall be seized and confiscated.

5. Through the instant petition/appeal the appellant claims to be owner of the said forest produce, which he purchased from Kalaya; that the said *dandasa* was not obtained from a government forest; that there was no damage report or site plan and neither any independent witness was associated. The petitioner prays that the *dandasa* was a perishable commodity and that it would lose its value if not handed over to him.

6. However, during arguments the appellant could not produced any document or permit to show that he was legally competent possess or transport walnut bark. According to Section 95 of KP Forest Ordinance, 2002, the burden of proof as to lawful authority etc. was upon the petitioner and he was bound a permit for

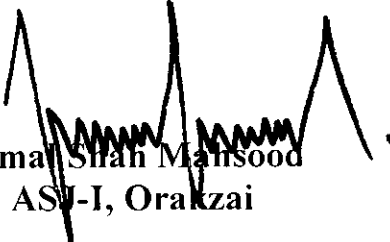
JAMAL SHAH MAHSUD
District & Sessions Judge-I,
Orakzai at Hangu

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transport of forest produce. According to Section 2 (19) (a) of KP Forest Ordinance, 2002 walnut bark is considered as forest produce wherever found. Its not necessary that the same shall have been brought from a forest.

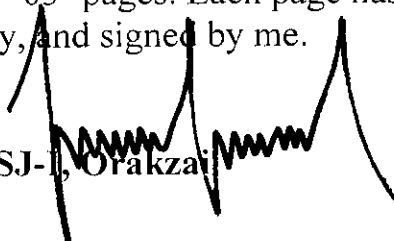
7. The argument of counsel for appellant that the Forest Department had proceeded in the case in an illegal manner cannot be considered at this stage, as this court is simply dealing with a matter of superdari. The petitioner may avail proper remedy in respect of alleged illegalities before proper forum, if so advised.
8. No illegality or infirmity could be pointed out in the impugned judgment. Resultantly, the instant appeal is hereby **dismissed**. Let this file be consigned to record room after necessary completion and compilation.

Announced
29-07-2020


Jamal Shah Mansood
ASJ-I, Orakzai

CERTIFICATE

Certified this judgment consists of -03- pages. Each page has been corrected, wherever necessary, and signed by me.


ASJ-I, Orakzai