

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONAL BENCH AT CHENNAI**

*(Under Section 18 (1) read with Section 14 and 15 of the National Green  
Tribunal Act, 2010)*

**ORIGINAL APPLICATION NO. 76 OF 2022**

**IN THE MATTER OF:**

Damayanti Subray Mesta

..... APPLICANT

**VERSUS**

Department of Public Works, Ports & Inland Water Transport,

Government of Karnataka & Ors.

... RESPONDENTS

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*Sreeja Chakraborty*

**SREEJA CHAKRABORTY LILY FRANCIS**

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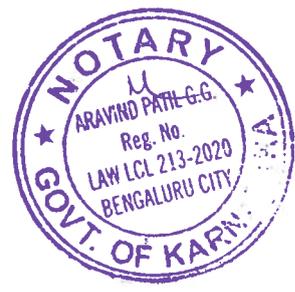
Government of Karnataka & Ors.

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**PRELIMINARY OBJECTIONS ON THE REPLY AFFIDAVIT FILED BY RESPONDENT NO.1 & 8**

**MOST RESPECTFULLY SHOWETH:**

1. The Applicant raises preliminary objection to the fact that Respondent No.1 (Directorate, Ports and Inland Water Transport) and Respondent



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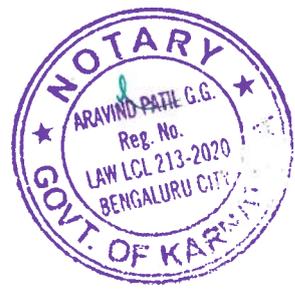
No.8 (The Deputy Commissioner, Uttar Kannada district, Karwar) have filed joint response/reply Affidavit in the instant Original Application.

2. Respondent No.1 is the project proponent who in violation of the CRZ Notification 2011 in absence of prior approval from the Karnataka State Coastal Zone Management Authority (herein after referred as “KSCZMA”) has undertaken construction of 4-lane-4km long road to provide port connectivity to M/s HPPL’s port project at Sy. No 305 at Kasarkod Tonka to National Highway-66 (previously NH-17). The construction of the impugned road undertaken since 24<sup>th</sup> January 2022 in violation of the CRZ law during the peak nesting season of Olive Ridley Turtle (December-February) has also led to destruction of habitat of Olive Ridley Turtle at the Kasarkod beach in violation of Wildlife (Protection) Act 1972 as Olive Ridley Turtle is classified as schedule-I species and are accorded the highest protection under the India’s Wildlife law.
3. In fact, Applicant’s allegation against Respondent No.1 of violating the CRZ law has been ratified by KSCZMA (herein Respondent No.



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- 3) in their status report filed before the Hon'ble Tribunal in instant case.
4. It is submitted that Respondent No.8, the Deputy Commissioner, Uttar Kannada district additionally holds a statutory position under the CRZ Notification, 2011. As per Para 6 (c) of the CRZ Notification, 2011, the Deputy Commissioner is the Chairman of the District Coastal Zone Management Committee (DCZMC) entrusted with the duty of enforcement and implementation of the CRZ Law in the respective district. In fact, under the CRZ Law, the Deputy Commissioner, Uttar Kannada district is duty bound to assist the KSCZMA in enforcing and monitoring the CRZ Notification, 2011. It is reiterated that KSCZMA has confirmed the allegations raised by the Applicant that the construction of the impugned road is undertaken without CRZ approval.
5. Therefore, it is submitted that given the facts and circumstances of the case, Respondent No.1 and 8 filing a joint response affidavit affirmed only by the Port Engineer of Respondent No.1 shows connivance and the intention of both the Respondents to violate the

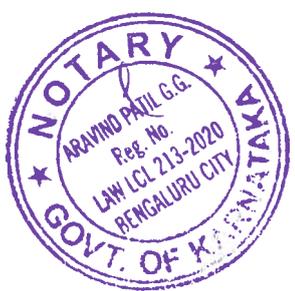


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law with impunity and the same is subversive of the doctrine of Rule of Law.

6. It is submitted that the violations of the CRZ law by Respondent No.1 by undertaking construction of the impugned road through 'No Development Zone' of CRZ-III and CRZ I areas threatens the livelihood of the Applicant. The CRZ Notification 2011 was issued by the Central Government to ensure livelihood security to the fisher communities living in the coastal areas, therefore any deviation in upholding the law to protect the interest of such communities is against the doctrine of Rule of Law.

7. It is further submitted that as per Rule 33 the National Green Tribunal (Practices and Procedure) Rules 2011, the language of this Hon'ble Tribunal is English and Respondent No.1 & 8 are in violation of the Rule by failing to provide/attach English Translation copy of the Kannada documents attached as Annexure R-6, R-12 & R-14 along with their repose affidavit. Therefore, the contents of the same is unknown.



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In the light of above facts and circumstances the Interim relief as sought and granted to the Applicant by this Hon'ble Tribunal vide order dated 27<sup>th</sup> July 2022 be extended.

*Damayanti*  
APPLICANT

THROUGH

*Sreeja Chakraborty*

SREEJA CHAKRABORTY LILY FRANCIS

**VERIFICATION**

I, Damayanti Subray Mesta, W/o Subray Mesta, aged about 43 years, R/o Tonka-1, Kasarkod, Honnavar, Uttar Kannada district, Karnataka-581342 do hereby verify that the contents of para 1 to 7 are true and that I have not suppressed any material fact.

*Sreeja Chakraborty*

Identified by me  
ADVOCATE

*Damayanti*  
APPLICANT

Date: 10/09/2022  
Place: Bangalore



SWORN TO BEFORE ME  
*u r all u yur*  
ARAVIND PATIL G.G. B.A., LL.B  
ADVOCATE & NOTARY  
12th Main, Near Old Sub Register Office  
4th Block, Jayanagar, Bengaluru - 560 011.

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Department of Public Works, Ports & Inland Water Transport,

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**AFFIDAVIT**

I, Damayanti Subray Mesta, aged about 43 years, Wife of Subray Mesta,  
Residing at Tonka-1, Kasarkod, Honnavar, VTC: Kasarkod, P.O:  
Kasarkod, Uttar Kannada district, Karnataka -581342, do hereby solemnly  
affirm and declare as under:

1. That I am the Applicant in the above titled Application and am conversant with the facts and circumstances of the case and competent to swear this Affidavit.



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2. That content of the application is true and correct to the best of my knowledge and drafted on my instruction and nothing material has been concealed therefrom.

*Dhmayanti*  
**DEPONENT**

**VERIFICATION**

Verified on this 10<sup>th</sup> day of September 2022 that the contents of the above affidavit are true and correct and nothing material has been concealed therefrom.

*Dhmayanti*  
**DEPONENT**

*Date: 10/09/2022*  
*Place: Bangalore.*



**SWORN TO BEFORE ME**  
*U r celi le you*  
**ARAVIND PATIL G.G. B.A., LL.B**  
**ADVOCATE & NOTARY**  
12th Main, Near Old Sub Register Office  
4th Block, Jayanagar, Bengaluru - 560 011.

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