

FILED ON: 02.10.2023

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT  
CHENNAI**

**Original Application No. 149 of 2022**

Shankaran : Applicant  
Vs.  
State of Kerala & Others : Respondents

**RESPONSE FILED BY THE 9<sup>TH</sup> RESPONDENT IN REPLY TO  
THE REPORT OF THE 2<sup>ND</sup> RESPONDENT DISTRICT  
COLLECTOR DATED 08.05.2023**

**M/s. VIRUKSHAM LEGAL**  
**Advocates for 9<sup>th</sup> Respondent**  
Vidya.A (Ms.1226/2008)  
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Dated this the 02<sup>nd</sup> day of October 2023

**For Viruksham Legal**



Partner

**M/s. VIRUKSHAM LEGAL**  
Advocates for the 9<sup>th</sup> Respondent

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT  
CHENNAI**

**Original Application No. 149 of 2022**

Shankaran : Applicant  
Vs.  
State of Kerala & Others : Respondents

**RESPONSE FILED BY THE 9<sup>TH</sup> RESPONDENT IN REPLY TO THE  
REPORT OF THE 2<sup>ND</sup> RESPONDENT DISTRICT COLLECTOR DATED  
08.05.2023**

I, Benny P.C., aged 40 years, S/o. Chakappan, Managing Partner, M/s. Kalpaka Metal Crushers, Kailiyad P.O., Shornur (Via), Ottappalam, Palakkad District, PIN-679122, do hereby solemnly affirm and state as follows:

1. I am the Managing Partner of 9<sup>th</sup> respondent firm and specifically authorised to swear this affidavit on behalf of the firm.
2. The application has been filed by the applicant seeking restitution of environment under section 15 (1) (b) of NGT Act. He alleges that his paddy field having an extent of 2.5 acres of paddy land at Vembalathupadam, comprised in Sy No.454/1, 437/4, 424/7 and 432/5 of Chalavara Village, in Ottappalam Taluk, Palakkad District was made unfit for paddy cultivation by quarry waste, overburden soil and crusher washout discharged from the quarry and metal crusher unit of this respondents and 8<sup>th</sup> respondent.
3. As per the report of 2<sup>nd</sup> respondent District Collector, the applicant is having only 38.97 Ares (around 94 cents) in Re-Sy. Nos. 424/7 and 432/5 of Chalavara Village and her two daughters jointly own 29.80 Ares in Re-Sy No. 424/6 of



Chalavara Village. The averment of the applicant regarding extent of paddy land under his exclusive ownership is false.

4. As per the digital archive of land revenue details land comprised in Re-Sy No. 454/1 and 437/4 belongs to Mr. Chandran Nair, S/o. Raman Nair, Karuthodi House and Mr. Kochu Krishnan, S/o. Parameswaran, Namprath Valappil House. True copy of the screenshot printed out from the website of (kerala.gov.in) Revenue eservices with respect to Re-Sy No. 454/1 and 437/4 along with its English Translation are produced herewith and marked for reference as **Annexure-R9 (J) and R9(K) respectively**.

5. Applicant has not produced any document in support of his claim regarding exclusive ownership of 2.5 acres paddy land. He has made above application on a speculative basis with misrepresentation and suppression of material facts.

6. According to the applicant, the cause of action for the above original application is siltation and deposition of overburden soil and quarry wastes by discharge of wastes from quarry and metal crusher of respondents 8 and 9 to his paddy fields which made it unfit for profitable cultivation. It is pertinent to note that it is reported in the report dated 08.05.2023 submitted by the District Collector that *“on physical verification done through village officers Chalavara & Vaniyakulam-1 reported that chances of draining quarry waste and metal crusher wash out from 8th respondents & 9th respondents’ quarry to petitioner’s paddy land is very less. It is not predominantly seen that the field were covered or made unfit with deposits from quarry. During flood in 2018 and 2019 a little bit sledge had got deposited in small area through the nearby*



*water channel. This channel is not connected with the quarrying area. On site verification it is evident that paddy was cultivated and harvested recently in Re Survey nos. 432/6, 424/6 of land belonging to applicant and family.”*

7. Not only the revenue officials, but also the Panchayat and Pollution Control Board also dispelled the allegation of applicant regarding deposition of overburden soil and quarry wastes to the paddy fields. The above application is filed on a speculative basis, without any merit and cause of action. The aged applicant is learnt to be only a name lender and the application is in fact filed at the instance of some others related to the applicant with a dishonest intention to siphon off money from quarry operators by playing pressure tactics by preferring vexatious litigation by making fishing enquiry.

8. This respondent has made objection regarding the maintainability of the above application, and it must be heard before hearing the above matter on merit. This tribunal should not permit environmental litigation as means to win ransom to malafide litigants by putting pressure upon project proponents.

9. We have conducted mining and crushing operation in our unit in compliance of conditions stipulated in the Environmental Clearance No.DIA/KL/PL/38/2017 dated 05.03.2018 and the Consent to operate No. PCB/PLKD/ICO/R2/105/2018 dated 12/03.2018 issued from your office and as per the directions of District Geologist. We have stopped the operation of quarrying unit by the end of November 2022 after the expiry of Mining Permit No. 18/2021-22/GBS/DOP/2361/2021/A1 dated 06/12/2021 having validity upto 05/12/2022.



10. There was no complaint against our quarry and crusher unit at any point of time during its operation regarding water or air pollution or any nuisance to the neighbouring public. The reply/ reports submitted by concerned local bodies/ departments/ agencies including your office before Honourable NGT vouchsafe it.

11. The drainage channel flows adjoining the agricultural property of Mr. Sankaran is not connected with the quarrying area of our unit. The site sketch produced by the applicant himself, and the report of the District Collector dated 17.02.2023 proves that the allegation made by applicant in O.A 149/2023 is false.

12. We have stacked the topsoil and overburden generated during the quarrying operations in our premises earmarked for the same in compliance of Clause No.43 of the General Conditions and Clause 14 of Specific Condition prescribed in the EC for using restoration of mining pits after completion of mining life permitted in EC and in compliance of the mining closure plan approved by the Geology Department on 18/12/2017.

13. The validity of our EC expired on 04.03.2023 and we kept the site idle and undisturbed without any activity including restoration of mining pit by using the stacked topsoil and overburden, since the matter was sub judice under the consideration of Honourable National Green Tribunal, Chennai.

14. According to the technical inputs from Consultants and Experts, it is not advisable to remove the stacked topsoil and overburden during the monsoon and heavy rain which may result



in inundation in the area and spreading of overburden to adjacent land.

15. The stack of OB dumps is scientifically vegetated with suitable native species of trees and shrubs to prevent erosions and surface run off in compliance of EC conditions. We are providing additional measures to prevent run off and erosion in dump area with geo textiles and concrete embankment walls.

16. Our mining area covered under Annx-A1 EC is adjoining to the abandoned quarry existing at the southern part of our quarry. The existing abandoned quarry was directed to be maintain for rainwater harvesting by Environment Impact Assessment Authority in Special condition No.5 of Annx-A1 EC. The filling of stacked topsoil and overburden in the present quarry pit may lead to restoration of the abandoned quarry which would result in violation of EC condition.

17. Considering drought proneness and water scarcity of Palakkad District and the area wherein the quarry situates, if the present quarry and the existing abandoned quarry is combinedly used as a water storage source for our premises and for nearby public of the Panchayat, it would be more desirable and beneficial to the public and all. Disturbing of already settled and stabilised soil dump with suitable vegetation would not meet the quantity required for restoration of the old and present quarry area and it requires huge quantity of ordinary earth for reclamation of the total quarry area, which may result environmental damage elsewhere. Hence the possibility of retaining large amount of water with all protective measures in these pits for domestic/irrigation purposes of the local public in



the Panchayat may be considered as a good alternative and environment friendly approach. Therefore, we made a request before the 7<sup>th</sup> respondent Board on 20.07.2023 to consider the same in consultation with the concerned departments such as irrigation and ground water department. We are ready to provide necessary infrastructural facilities for making use of the large quantity of water for the local public.

In the above circumstances, it is most humbly prayed that this Honourable Tribunal may be pleased to dismiss the above Original Application filed by the applicant without any bonafide, cause of action and locus standi and in violation of the direction of NGT, Principal Bench in *Shivpal Bhagat & Ors. Vs. Union of India & Ors.*, with exemplary cost.

All the facts stated above are true and correct.

Dated this the 02<sup>nd</sup> day of October 2023



Deponent: Benny P.C

**Annexure-R9(J)-(1)**

**Verify Land Details**  
Home / Verify Land Details

Pokkuvaramu
Tax Receipt No
**Tax Dues / Ownership**

**Tax Dues / Ownership**

District \*

Taluk \*

Village \*

Search By \*

Resurveyed Date

Block \*

View Tax Dues

Land Details \*

or

View Ownership

Thandapper \*

Disclaimer: Search is Limited To Ownership Updated & Land Tax Paid through the System Only.

Call
Clear

Survey / Subdivision Number	Current TP no	Current TP Details	Current Area			Last Land Tax Paid Details			Land Tax Amount To be Paid	
			Hect	Ara	Sqmt	Fin. - Year	Amount	Paid On	Arrear	Current
437 / 4	2065	അറബി മൊരലി ചുരുൾ പുത്തൻ മൊരലി	0	1	60	-	-	-	-	0

This is the true computer printout of the screenshot marked as Annx-R9(J)in the accompanying affidavit.

  
 Benny P.C, R9

**Annexure-R9(J)-(2)**

**Verify Land Details**  
Home / Verify Land Details

Pakkuravaru Tax Receipt No Tax Dues / Ownership

**Tax Dues / Ownership**

District \*

Taluk \*

Village \*

Search By \*

Resurveyed Date 31/03/2014

Block \*

View Tax Dues

Land Details \*

OR

View Ownership

Thandappe \*

Disclaimer: Search is Limited To Ownership/Ownership Of Land Tax Paid Through The System Only.

Survey / Subdivision Number	Current TP no	Current TP Details	Current Area			Last Land Tax Paid Details		Land Tax Amount To be Paid	
			Hect	Are	Sent	Fin - Year	Amount	Paid On	Ambar
437/4	2055	Chalava No. 5th Revenue Star Blockland Area, Village Chalavaree, Taluk Ottappalam	0	1	60	-	-	-	0

This is the true English translation of the Annx-R9(J) produced along with the accompanying affidavit.

  
Benny P.C, R9

**Annexure-R9(K)-(1)**

**Verify Land Details**  
Home / Verify Land Details

Pakkusaravu   Tax Receipt No   Tax Dues / Ownership

**Tax Dues / Ownership**

District \*

Taluk \*

Village \*

Search By \*

Resurveyed Date

Block \*

View Tax Dues

Land Details \*

01

View Ownership

Thandapper \*

Disclaimer: Search is Limited To Ownership Updated Or Land Tax Paid Through The System Only.

Survey / Subdivision Number	Current TP no	Current TP Details	Current Area			Last Land Tax Paid Details			Land Tax Amount To be Paid	
			Hect	Are	Sqmt	Fin. - Year	Amount	Paid On	Arsar	Current
454 / 1	D658	കൊല്ലം ജില്ലയിലെ പാലാ താലൂക്കിലെ അരുവ് വരമ്പിലെ	0	73	51	2023-2024	592	19/06/2023	-	0

This is the true computer printout of the screenshot marked as Annx-R9(K)in the accompanying affidavit.

*Benny*  
Benny P.C, R9

**Annexure-R9(K)-(2)**

**Verify Land Details**  
Home / verify Land Details

Pokkuvattavu   Tax Receipt No   **Tax Dues / Ownership**

**Tax Dues / Ownership**

District \* **09 Palakkad**

Taluk \* **Ottappalam**

Village \* **Chalavara**

Search By \* **Resurvey Number**

Resurveyed Date **31/03/2014**

Block \* **05B**

View Tax Dues

Land Details \*

OR

View Ownership

Thandapper \*

Disclaimer: Search is Limited To Documents Uploaded Or Land Tax Paid Through This System Only.

Survey / Subdivision Number	Current TP no	Current TP Details	Current Area			Last Land Tax Paid Details			Land Tax Amount To be Paid	
			Hect	Are	Sqmt	Fin. Year	Amount	Paid On	Ansar	Current
454/1	0168	<b>Kochukrishnan S/o. Parameswaran Namprath Valappil, Karalmanna</b>	0	73	81	2023-2024	192	18/03/2023	-	0

This is the true English translation of the Annx-R9(K) produced along with the accompanying affidavit.

*Benny*  
Benny P.C, R9