

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI**

Original Application No. 155 of 2021

IN THE MATTER OF:

KONDRU MARDIYYA

S.C. Colony,
Gunupudi Village, Nathavaram Mandal,
Vishakapatnam District – 53115
Email: litigation.life@gmail.com Ph: +91 9312407881

...APPLICANT

VERSUS

1. State of Andhra Pradesh

Through the Chief Secretary
Building No. 1, 1st Floor, Interim Government Complex,
A.P Secretariat, Velagapudi Guntur
Email: cs@ap.gov.in Phone : 0863-2441024
And 7 others

COUNTER AFFIDAVIT FILED BY THE 6th RESPONDENT

Date-21-11-2021

**M/S MADHURI DONTI REDDY
ADVOCATE
STANDING COUNCIL FOR GOVERNMENT OF
ANDHRA PRADESH
A.P. POLLUTION CONTROL BOARD
T.T.D. SUPREME COURT OF INDIA
#S2, Royal Castle, 26, Gill Nagar Extension, Choolaimedu,
Chennai – 600 094. Mobile: 98407 98460 / 6383121322
COUNSEL FOR 6TH RESPONDENT**

**BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE BENCH AT
CHENNAI**

ORIGINAL APPLICATION NO.155 OF 2021

IN THE MATTER OF:

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Through the Chief Secretary
Building No. 1, 1st Floor, Interim Government Complex,
A.P Secretariat, Velagapudi Guntur
Email: cs@ap.gov.in Phone : 0863-2441024

2. Union of India,

Through its Secretary,
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110003
Mail: secy-moef@nic.in Ph: 011-24695136

3. Mines and Geology Department, Government of Andhra Pradesh

Through Principal Secretary,
Sri Anjaney Towers,
D. No. 7-04, B-Block, 5th and 6th Floors,
Ibrahimpattanam. Vijaywada
Email: secy_mines@ap.gov.in Ph: 0866-2882170

4. Forest Department , State Government of Andhra Pradesh

Through Principal Chief Conservator of Forests & Head of Forest Force
Aranya Bhavan, K.M. Munshi Road,
Nagarampalem, Guntur – 522004
Email: prlccf_hf_apfd@ap.gov.in Ph: 0863-23775500

5. Sri J. Lakshmana Rao

S/o Ganeshwararao
Kakarapadu Village,
Koyyuru Mandal, Vishakapatnam

6. District Collector, Visakhapatnam District

Main Road, Krishnanagar,
Maharani Peta, Vishakapatnam – 530002
Email: Collector_vspm@ap.gov.in Ph: 08912563121

7. Andhra Pradesh Pollution Control Board

Through the Member Secretary
D.No.33-26-14/D2, Pushpa Hotel Center, Chalamalavari Street,
Kasturibaipet, Vijayawada – 520 010.
Email: membersecy@appcb.gov.in, Ph: 0866-2463200


District Collector
Visakhapatnam

8. Assistant Director of Mine & Geology, Vishakapatnam

Behind Babaa Bazaar, Lawsonsbay Colony

PeddaWaltair, Vishakapatnam – 53001

Email: admin@apmines.gov.in**....RESPONDENTS****COUNTER AFFIDAVIT FILED BY THE 6th RESPONDENT**

I, A.Mallikarjuna, Son of Mallaiah aged about 41 years, Occ: **District Collector, Visakhapatnam District** do hereby solemnly affirm and sincerely state as follows:-

1. I am the deponent herein and as such I am well acquainted with the facts of the case.
2. This respondent denies each and every averment made in the affidavit filed in support of the application as false and incorrect except those that are specifically admitted herein in this counter affidavit.
- 3, It is submitted that, the Asst. Director of Mines and Geology, Anakapalli while forwarding one set of the Mining Lease application to the Tahsildar, Nathavaram Mandal, Visakhapatnam District and informed that the 5th respondent has filed an application for grant of Mining Lease for Laterite Mineral over an extent of 121.00 Hectares in Un- surveyed Hill Portion (USHP) of Bhamidika Village, Hamlet of Sarugudu Panchayat, Nathavaram Mandal, Visakhapatnam District for a period of 20 years and requested the Tahsildar, Nathavaram for issue of Classification, availability and NOC for grant of quarry lease in favour of the 5th respondent.
4. It is submitted that the Tahsildar, Nathavaram, vide Rc.No.189/09A, dated 22.09.2009 (**Annexure-1**) under copy submitted to the District Collector, Visakhapatnam informed to the Asst. Director of Mines and Geology, Anakapalli stating that, he had inspected the land along with Mandal Surveyor, Nathavaram and Additional Revenue Inspector on 18.09.2009. The area for which mining lease

Deponent
District Collector,
Visakhapatnam

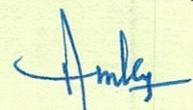
applied by the 5th respondent is an un-surveyed hill portion (gap area Govt.Land). There is no residential area located nearby the proposed quarry. The area demarcated measuring extent Hectares 121.00 and shown in the sketch prepared by the Mandal Surveyor. The proposed area is with some Bumps with rocky terrain and not fit for cultivation and physically appears reddish in color.

5. It is submitted that the Tahsildar, Nathavaram vide Rc.No.189/09A, dated 22.09.2009 **(Annexure-1)** further informed that, the Sarpanch of Gram Panchyat, Sarugudu Village also issued copy of Gram Panchyat resolution date 20/23.07.2009 in favour of the 5th respondent for Mining Lease the 5th respondent agreed the lease rent and security deposit fixed by the authorities as and when ordered to do so.

6. It is submitted that as per the circular instructions issued vide Memo.No.3371/04/E5, dated 09.08.2004 of 6th respondents, the 5th respondent shall pay the lease rent and security deposit as follows:

- 1) Lease rent Hect. 122.00, 10% of Market value (Market value Rs. 1,50,000/- per Acres)
- 2) Security Deposit Rs. 10,000/- per Hectare for PL.
- 3) Security Deposit One year Dead Rent Rs. 25000/- per Hectare before execution of the lease deed.

7. It is submitted that the Tahsildar, Nathavaram further informed that, the basic value of dry land in Sarugudu Village is in Rs. 67,500/- per Acre and the minimum local market value is at Rs. 1,00,000/- per Acre of Dry and the maximum Rs. 1,50,000/- per Acre. and requested to fix up the lease rent on the maximum rate in the interest of mineral revenue to the State exchequer.



Deponent

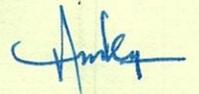
**District Collector
Visakhapatnam**

the Tahsildar, Natavaram further informed that, as per the certificate issued by the Tahsildar, Koyyuru Mandal, Visakhapatnam District the 5th respondent is belongs to Bhagatha by Caste (Schedule Tribe). Finally, issued No Objection Certificate for grant of Mining Lease over an extent of 121.00 Hectares situated in Bhamidika village, hamlet of Sarugudu Panchayat to the 5th respondent and the Village Panchayat Resolution of Sarugudu Gram Panchayat signed by the Sarpanch, Sarugudu Grama Panchayat dated 20.07.2009.

8. It is submitted that the permission/ resolution of the Gram Panchayat of SaruguduPanchayat, Nathavaram Mandal, Visakhapatnam District has been taken on 20.07.2009.

9. It is submitted that the Gram Panchayati, Sarugudu Village has passed Panchayat Resolution in the present of the then Gram Sarpanch of Sarugu Village on 20.07.2009 for issue permission for grant of Mining Lease for Laterite Mineral over an extent of 121.00 Hectares in Un- surveyed Hill Portion (USHP) of Bhamidika Village, Hamlet of Sarugudu Panchayat, Nathavaram Mandal, Visakhapatnam in favour of 5th respondent as it provides employment to the Youth residing in the villages i.e., Bhamidikaloddi, Munthamamidiloddi, Patha siripuram, Kothasiripuram, Thorada, Sundarakota, Kothadaddigula and Hasanagiri etc.

10. It is submitted that after receipt of the Panchayat Resolution of Sarugudu Gram Panchayat signed by the Sarpanch, Sarugudu Grama Panchayat dated 20.07.2009 the Tahsildar, Nathavaram has issued NOC in favour of the 5th respondent vide Rc.No.189/09A, dated 22.09.2009 (**Annexure-1**) for grant of Mining Lease for Laterite Mineral.



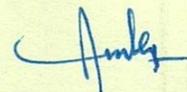
Deponent

District Collector
Visakhapatnam

11. It is submitted that this 6th respondent vide Rc. No.1961/2014/A1, dt.18.12.2015 (**Annexure-2**) cancelled the resolution dt.23.07.2009 passed by Sarugudu Gram panchayat as per the Govt. memo No.3141/Pts.III/A1/2015, dt.16.11.2015 of PR&RD (Pts.III) Department as he was directed to cancel all the consequential orders with regard to permissions of Laterite leases issued by Sarugudu Gram Panchayat of Nathavaram Mandal which was based on manipulated proceedings from the fictitious resolutions passed by the Sarugudu Gram Panchayat of Nathavaram Mandal on 23.07.2009 and also directed to cancel the Laterite mining leases granted by the Mining Department based on the fictitious resolutions dt.23.07.2009 of the Sarugudu Gram Panchayat of Nathavaram Mandal.

12. It is submitted that the Tahsildar, Nathavaram, vide Rc.No.285/2016A, dt.29.07.2016 (**Annexure-3**) cancelled the NOC issued earlier vide Rc.No.189/2009A, dt.22.09.2009 (**Annexure-1**) along with other NOC's issued basing on the resolution dt.23.07.2009. Subsequently, the Director of Mines and Geology, Hyderabad issued show cause notice No. 28707/R1-3/2016, dt.15.10.2016 to the 5th respondent stating that the application filed by the 5th respondent was proposed for rejection as NOC given by the Tahsildar, Nathavaram was cancelled Rc.No.285/2016A, dt.29.07.2016 (**Annexure-3**) due to fictitious resolution dt.23.07.2009 passed by Sarugudu Gram panchayat.

13. It is respectfully submit that aggrieved the show cause Notice dated 15.10.2016, the 5th respondent filed W.P.No.36605/2016 before the Hon'ble High Court of Andhra Pradesh with a request to stay all further proceedings in pursuance of the proceedings No.28707/R1-3/2016, dt.15.10.2016 pending disposal of WP.No.36605/2016 on the file of the Hon'ble High Court.



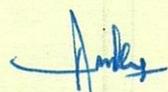
Deponent

**District Collector
Visakhapatnam**

14. It is respectfully submit that the 5th respondent also filed another W.P.No.30956/2016 (Annexure-4) before the Hon'ble High Court of Andhra Pradesh with a request to suspend the Government memo No. 3141/Pts.III/A1/2015, dt.16.11.2015 of PR&RD (Pts.III) Department and consequential orders of the District Collector (PW), Visakhapatnam vide Rc.No.1961/2014/A1, dt.18.12.2015 (**Annexure-2**) and the orders of the Tahsildar, Nathavaram vide Rc.No.285/2016A, dt.29.07.2016 (**Annexure-3**), pending disposal of W.P. No.30956/2016 on the file of the Hon'ble High Court. (**Annexure-4**).

15. It is respectfully submit that after hearing the arguments from both sides, the Hon'ble High Court vide order dt.26.02.2018 in W.P.M.P. No.45078 of 2016 in W.P.No.36605/2016 (Annexure-5) common order dt.17.08.2018 in I.A.No.1 of 2017 (WVMP.No.1002 of 2017 and I.A.No.2 of 2017 (WVMP.No.3756 of 2017) in WP.No.30956 of 2016 & WP.No.30956 of 2016 (**Annexure 8**) stated that "The fact that from 2009 till passing the impugned order dated.15.10.2016, the petitioner's applications were considered and processed, raises a question as to the integrity or otherwise of the gram panchayat. In those circumstances, it is directed that status-Quo in all respects obtaining as on today be maintained. It is also made clear that the respondents shall not allocate the area, which has been identified to be allocated to the petitioner, to any third party, pending disposal of the Writ Petition".

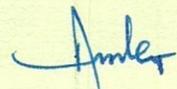
16. It is respectfully submit that the Hon'ble High Court, in its order stated that *"In this view of the matter, the Memo No.3141/Pts.III/A1/2015 dt.16.11.2015 passed by the State of Andhra Pradesh (1st respondent herein) and the consequential order in Rc.No.1961/2014A1, dt.18.12.2015 (Annexure-2), passed by the District Collector, Visakhapatnam (3rd respondent herein), and the order in Rc.No.285/2016/A dt.29.07.2016 (Annexure-3) of the Tahsildar, Nathavaram Mandal, Visakhapatnam (4th respondent herein) cannot be*



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sustained, and they are accordingly set aside. Accordingly, the Writ Petition was allowed with costs of Rs.10,000/- to be paid by the 1st respondent within four (04) weeks. It was declared that the 'No Objection Certificate' granted by the Tahsildar, Nathavaram Mandal, Visakhapatnam District, on 16.01.2012 to the petitioner regarding grant of mining lease to the petitioner for the extent of 121.00 Hectares in Bhamidika Village, Nathavaram Mandal, Visakhapatnam District holds, and the respondents are directed to take all steps necessary for executing mining lease in favour of the petitioner in respect of the said land and execute the same within a period of six (06) weeks from the date of receipt of copy of the order. Consequently, I.A.No.1 of 2017 (WVMP.No.1002 of 2017) was filed by the State of Andhra Pradesh and the Commissioner of Panchayat Raj, and I.A.No.2 of 2017 (WVMP.No.3756 of 2017) filed by the Director of Mines and Geology, Government of Andhra Pradesh to vacate the orders dt.25.01.2017 and dt.08.08.2017 passed in WPMP.No.38314 of 2016 in WP.No.30956 of 2016, are dismissed. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed".

17. It is submitted that the basing on the above said Hon'ble High Court orders, the 5th respondent while submitting the Approved Mining Plan, Environmental Clearance issued by SEIAA, GoI, MoEF vide order No.J-11015/379/2010-IA-II, dated 17.11.2014 (**Annexure 9**) and copy of Consent for Establishment (CFE) and Consent for Order (CFO) issued by AP Pollution Control Board Order No.7844-VSP/APPCB/ZO-VSP/CFE/2014-1192, dated 04.12.2014 (**Annexure 10 and 11**) and requested the Director of Mines and Geology, Ibrahimpatnam to grant quarry lease in his favour.



Deponent

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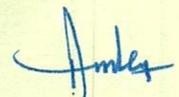
18. It is submitted that the Director of Mines and Geology, Ibrahimpatnam granted a quarry lease for **Laterite** over an extent of 121.00 Hectares in Un-Surveyed Hill Portion (**USHP**) of Bhamidika Village, H/o.Sarugudu Grama Panchayat, Nathavaram Mandal, Visakhapatnam District granted in favour of the **5th respondent** for a period of 20 years subject to the satisfaction of certain conditions and the conditions mentioned in the appendix were enclosed to the grant order vide Proceedings No.28708/D3-2/2009, dated.05.02.2021 (**Annexure 12 & 13**).

19. It is submitted that this paragraph is not relevant to this respondent since no remarks.

20. It is submitted that this paragraph is not relevant to this respondent since no remarks.

21. It is respectfully submit that subsequently Sri Kondru Maridayya has filed OA No. 155 of 2021 before Hon'ble National Green Tribunal praying to direct the Respondents 1, 2, & 4 to ensure that no mining activity is undertaken in violation of Forest (Conservation) Act, 1980 and Forest (Conservation) Rules, 2003 over an extent of 121.00 Hectares in forest lands situated in Un-Surveyed Hill Poramboke (USHP), adjoining Reserve Forest (RF) areas of East Godavari District, Bhamidikaloddi village, Hamlet of Sarugudu Gram Panchayat, Nathavaram Mandal, Visakhapatnam District, Andhra Pradesh.

22. It is respectfully submit that the Hon'ble National Green Tribunal vide orders dated 26.07.2021 in I.A. No. 101/2021 in O.A. No. 155/2021 constituting a committee comprising of (1) a Senior Officer from MoEFCC, Integrated Regional office, Chennai or a designated from any

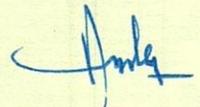


Deponent
District Collector
Visakhapatnam

Independent office if any in Andhra Pradesh (2) The District Collector, Visakhapatnam District (3) The District Forest Officer (DFO), Visakhapatnam (4) a Senior Officer from Mines and Geology Department, State of Andhra Pradesh, (5) a Senior Officer from Andhra Pradesh State Pollution Control Board (APPCB) as designated by its Chairman to inspect the area in question and submit a factual as well as Action Taken Report if there is any violation found and in order to ascertain the genuineness of the allegations made in the application regarding the alleged violations and damage caused to the Environment.

23. It is respectfully submit that in pursuance of the order dated 27-07-2021 of the Hon'ble National Green Tribunal in Original Application No.155 of 2021 (South Zone) and IA No.101/2021 (SZ), the Director of Mines and Geology, Ibrahimpatnam issued a proceeding No.28708/D3-2/2009 dated 05.02.2021 (Annexure 12 & 13) constituted joint committee to ascertain the genuineness of the allegations with regard to alleged violations and damage caused to the Environment by operating the Mining Lease for Laterite over an extent of 121 Hects in Un-surveyed Hill Portion in BamidikaLoddi Village h/o Sarugudu Grama Panchayat, Nathavaram Mandal, Visakhapatnam District in the jurisdiction of the office of the Asst. Director of Mines and Geology, Anakapalli

24. It is respectfully submit that the Director of Mines and Geology, Ibrahimpatnam nominated the Deputy Director of Mines and Geology (FAC), Visakhapatnam as a member to the proposed Joint Committee (Mines & Geology Department) to inspect the area and submit factual report with specific recommendations to take further action in accordance with the Mines and Minerals (Development & Regulation) Act 1957 and rules made there on with any violation found and submit report, also directed the Deputy Director of Mines and Geology (FAC), Visakhapatnam to arrange the 1st meeting of the



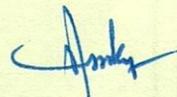
Deponent
District Collector
Visakhapatnam

Joint Committee on 09-08-2021 to prepare Road Map and further inspection. Further, the Director of Mines and Geology, Ibrahimpatnam nominated Assistant Director of Mines and Geology, Visakhapatnam as a Nodal officer to provide only necessary Logistic to the committee for this purpose.

25. It is respectfully submit that the following Joint Committee members have attended for quarry inspection on 18.08.2021:

Sl. No.	Name of the Officer	Name of the Designation
1	Sri A.Mallikarjuna, IAS	The District Collector, Visakhapatnam
2	Sri S.Elamnurugan, IFS	Asst. Inspector General of Forest (Central), Integrated Regional office, Ministry of Environment, Forest & Climate Change, Vijayawada-520010.
3	Sri AnathSankar, IFS	The District Forest Officer, Visakhapatnam
4	Sri M.Suresh Babu	MoEFCC, Scientist -C, Integrated Regional Office(IRO), Vijayawada.
5	Sri Ch.Surya Chandra Rao	The Dy. Director of Mines & Geology, Visakhapatnam
6	Sri Pramod Reddy	The Environmental Engineer, APPCB, Regional Office, Visakhapatnam

26. It is respectfully submit that the Joint Committee has inspected the quarry lease area held by 5th respondent for Laterite at Bamidika Village, Nathavaram Mandal, Visakhapatnam District on 18-08-2021. At the time of joint inspection by the committee members, the applicant Sri K.Maridayya was



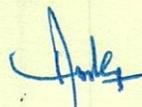
Deponent

District Collector
Visakhapatnam

also present at the site. During the course of inspection, the committee observed that road has been formed in East Godavari District limits and hence opined that the report shall also be obtained from the East Godavari District Forest Officials through District Forest Officer, Visakhapatnam for necessary action.

27. It is respectfully submitted that the Committee has also inspected the lands and approach road which connects the mining area with Kotha Siripuram village H/o Sarugudu. The GramaPanchayat, Sarugudu has given their consent through their resolution dt. 04-05-2021 in favour of the lessee of Laterite mine. This road is located at a distance of 300 meters away from inter district at Kotha Siripuram village H/o Sarugudu. The road was surveyed by the Mandal Surveyor, Nathavaram with reference to the records available and found that the road was formed from the East Godavari district boarder to the proposed mine area towards west side of Kotha Siripuram and Bhamidikaloddi villages of Sarugudu.

28. It is submitted that the Joint Committee have inspected the Mining Leased area on 18.08.2021. As a part the Revenue Divisional Officer, Narisipatnam vide Rc.No.645/2021/F, dated 15-09-2021 has informed that the Tahsildar, Nathavaram has submitted that the proposed mine area fell under Un Surveyed Hill Portion. The then Tahsildar, Nathavaram has recommended for NOC vide Rc.No.189/2009/A, dated 22.09.2009 (**Annexure-1**) to conduct mining operations in a extent of 121 Hectors in favour of the 5th respondent (Jartha Lakshmana Rao S/o Ganeswara Rao who is the lessee), but Revenue records prior to independence are not available for the subject land while the subject land stands as Un Surveyed Hill Portion. Finally, the Tahsildar, Nathavaram has reported that the proposed mine falls under Un Surveyed Hill Portion (USHP).



Deponent

District Collector
Visakhapatnam

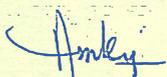
29. It is submitted that the Committee has inspected the lands and approach road which connects the mining area with Kotha Siripuram village H/o Sarugudu. The Grama Panchayat, Sarugudu has given their consent through their resolution dt. 04-05-2021 in favour of the lessee of Laterite mine. As seen from the Tahsildar's office records that the extent covered under the road is not a forest land and not an assigned land. No dwelling houses or structures were involved in the road and no water bodies were affected in the said road.

30. It is submitted that this respondent craves leave of this Hon'ble Tribunal to raise additional counter in the course of proceedings, if required.

In the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Original Application No.155 of the 2021 and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Visakhapatnam
District Andhra Pradesh on
this the 15th day of November, 2021
and signed his name in
my presence

BEFORE ME

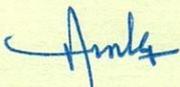

District Collector
Visakhapatnam

ADVOCATE, Visakhapatnam District

VERIFICATION

I, A.Mallikarjuna, Son of Mallaiah aged about 41 years, Occ: **District Collector, Visakhapatnam District**, do hereby verify that the contents of Paras of Counter Affidavit are based on record and information are true to the best of my knowledge and belief.

Hence, verified on the 15th day of November 2021 at Visakhapatnam


Deponent
District Collector
Visakhapatnam