

**FURTHER REPORT FILED BY THE 4<sup>th</sup> RESPONDENT, PRINCIPAL CHIEF  
CONSERVATOR OF FORESTS & HEAD OF FOREST FORCE , A.P, BEFORE THE  
HON'BLE NATIONAL GREEN TRIBUNAL IN O.A.NO.155/2021 (SZ)  
DT.30.11.2021**

The applicant, **Sri KONDRU MARIDIYYA**, has filed the application in OA No.155/2021 alleging illegal mining and non-forest use of forest land without prior forest clearance within Sarugudu Reserve Forest for mining Laterite Mineral over an extent of 121 ha in forest lands situated in Un-Surveyed Hill Poramboke (USHP) adjoining Reserve Forest area of East Godavari District. The alleged mining area is located in Bhamidikaloddi Village, Hamlet of Sarugudu Gram Panchayath, Nathavaram Mandal, Visakhapatnam District.

2) The Hon'ble National Green Tribunal in their orders dated:30.11.2021 observed as follows:

*"..... the Principal Chief Conservator of Forests (PCCF) & Head of the Forest Force (HoFF), State of Andhra Pradesh has filed their statement wherein, they have stated that this is revenue land under the control of Revenue Department and it is neither a "Reserve Forest" nor a "Declared Forest." They have not mentioned as to whether this will come under the definition of "Deemed Forest", as has been observed by the Hon'ble Apex Court in T.N. Godavarman Thirumalpad case. They are directed to clarify this aspect and file a further report in this regard. If there is any possibility of conflict between the State Government and Forest Department in this regard, then the State Government is directed to make arrangements to appoint separate counsel to represent the Forest Department in its propriety to avoid conflict between two independent departments and also to express their independent view regarding the issue in this matter, applying the principles laid down in T.N. Godhavarman Thirumalpad case."*

3) The Hon'ble Tribunal in their orders dated:30-11-2021 directed the Principal Chief Conservator of Forests & Head of Forest Force to file his further report regarding the USHP land, whether it falls under the definition of "Deemed Forest" as has been

observed by the Hon'ble Apex Court in *T.N. Godavarman Thirumalpad case*, on or before 22.12.2021.

4) It is respectfully submitted that, the legal status of the area in question i.e., 121 ha is an Un-Surveyed Hill Portion (USHP) (Gap area- Government land) in Bamidikaloddi village, Hamlet of Sarugudu Gram Panchayat in Nathavaram mandal, Visakhapatnam district and is under the administrative control of Revenue Department. It is neither notified as "Protected Forest / Reserve Forest" under the State Forest Act nor recorded as "forest" in government records. It is further submitted that it is not notified as "deemed forest" by Government of Andhra Pradesh.

5) It is respectfully submitted that, as ordered by the Supreme Court of India in their order of 12.12.1996 in W.P no.202/1995 with W.P.(C) no.171/96 in the matter of *T.N. Godavarman Thirumalpad Vs. Union of India* "the word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest (Conservation) Act, 1980. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Forest (Conservation) Act, 1980".

6) In the said order, the Hon'ble Supreme Court of India had directed that each State Government should constitute within one month an expert Committee to;

- i. identify areas which are "forests", irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the ownership of the land of such forest
- ii. identify area which were earlier forests but stand degraded, denuded and cleared; and
- iii. identify areas covered by plantation tree belonging to the Government and those belonging to private persons".

7) In this connection, it is respectfully submitted that parameters to identify Forests by dictionary meaning have not yet been finalized.

8) It is respectfully submitted that, in view of the above, except notified forests which are under the administrative control of Forest Department, other categories in terms of Supreme Court of India order of 12.12.1996 in W.P no.202/1995 with W.P(C) no. 171/96 in the matter of T.N. Godavarman Thirumalpad Vs. Union of India, are not in the knowledge of Forest Department. In the present case also, the nature of the land is Un-surveyed Hill Portion and not notified as Protected/ Reserve Forest under the State Forest Act and it is under the administrative control of Revenue Department. As per G.O.Ms.no.532,F&RD (For.III) dt.21.07.1975(**Annexure-I** ), all the Revenue Divisional Officers, Tahsildars and Deputy Tahsildars are appointed to perform the functions of Forest Officers, in connection with un-reserved lands, waste and poramboke lands at the disposal of Revenue Department.

9) It is respectfully submitted that in the absence of parameters to identify "Forests" by dictionary meaning, the land in question can not be categorized as deemed forest.

  
Principal Chief Conservator of Forests &  
Head of Forest Force  
..17/12/21

3. Custard apple fruit (*Anona Squamosa*)
  4. Soap nut (*Sapindus emarginatus*)
  5. Pungam fruit (*Pongamia pinnata*)
  6. Marking nut (*Semecarpus anacardium*)
  7. Cleaning nut (*Strychnos potatorum*)
  8. Amla fruit (*Emblica officinalis*)
  9. Chironji fruit (*Buchanania lanzan*)
  10. Teak fruit (*Tectona grandis*)
  11. Tuniki fruit (*Diospysros melanoxylon*)
  12. Nuxvomica fruit (*Strychnos nuxvomica*)
  13. Wood apple fruit (*Ferronia limonia*)
- 4. Investiture of powers on forest officers to compel attendance of witness to Courts etc., under Andhra Pradesh Forest Act, 1967.**

[*G.O.Ms.No. 585 Forests and Rural Development (For-III) 4th November, 1974, published in AP Gazette R.S. to Pt. I, dt. 21-11-1974 issue No. 45, Page 1377*]

In exercise of the powers conferred by Clause (b) of sub-section (1) of Section 62 of the Andhra Pradesh Forest Act, 1967 (Act 1 of 1967), the Governor of Andhra Pradesh hereby invests all the Forest Officers ; not below the rank of Assistant Conservator of Forests with the—

- (i) power of a Civil Court to compel the attendance of witness and the production of documents and material objects ; and
- (ii) to search or to issue a search warrant which may be executed in the manner provided in the Code of Criminal Procedure, 1973.

*Note*:— The witnesses so summoned be paid actual expenses of passage by a public conveyance and daily allowances as prescribed in the Andhra Pradesh Manual of Special Pay and Allowances. The officer competent to summon witnesses is also competent to fix the class to which each of such persons is eligible for the purposes of these allowances. The Officer competent to summon is hereby authorised to sanction such expenditure and pay the same from other contingencies.

**5. Booking of offence in unreserved and poramboke Lands delegation of powers to the officials of the Revenue Department.**

[*G.O.MS.No. 532 F & RD (For.III), dt. 21-7- 1975*]

In exercise of the powers conferred by sub-clause (ii) of Clause (f) of Section 2 of the Andhra Pradesh Forest Act, 1967 (Act 1 of 1967) the

Governor of Andhra Pradesh hereby appoints all Revenue Divisional Officers within their respective jurisdictions to perform the functions of forest officers and invest them with the powers under Section 62 (1) (a) (iii) to accept compensation for forest offences under Sec. 59 of the said Act, arising in connection with unreserved lands, waste, and poramboke lands at the disposal of the Revenue Department and also appoints all Tahsildars and Deputy Tahsildars under sub-clause (ii) of clause (f) of Section 2 of the said Act to perform the functions of Forest Officers and invests them with the powers under Section 62 (1) (a) (iii) to accept compensation for forest offences under Section 59 of the said Act arising in connection with unreserved lands, waste and poramboke lands at the disposal of the revenue department, the value of the property involved does not exceed Rs. Two hundred.

**6. Forest Offences—Confiscation of tools etc.—Authorisation—Orders.**

[G.O.Ms.No. 32 F & RD (For. III) Dept., dt. 21-1-1976]

In exercise of the powers conferred by sub-section (2) of Section 44, of Andhra Pradesh Forest Act, 1967 (Andhra Pradesh Act I of 1967) as amended by Andhra Pradesh Forest (Amendment) Ordinance, 1975 (A.P. Ordinance 22 of 1975) the Governor of Andhra Pradesh hereby authorised the following officers to perform the functions of the authorised officer under that section.

(1) Sub-Divisional Forest Officers.

(2) Divisional Forest Officers.

**7. Conservator of forests are authorised officers under sub-section (2D) of Section 44.**

[G.O.Ms.No. 554 F & RD (For-III) Department, dt. 8-6-1976]

In exercise of the powers conferred by sub-section (2-D) of Section 44 of Andhra Pradesh Forest Act, 1967, (Act 1 of 1967) the Governor of Andhra Pradesh hereby authorises all Conservators of Forests in the State of Andhra Pradesh, to perform the functions of the authorised officer under that section.

**8. Amendment to Section 2(g)(3) of the Act to include 'Gum' under forest produce items.**

[G.O.Ms.No. 724, F & RD (For-III), dt. 24-9-1977, published in A.P. Gazette, R.S. to Pt. I, dt. 13-10-1977 (issue No. 41. PP 1040)]

In exercise of the powers conferred by Section 68 read with sub-clause 3) of clause (g) of Section 2 of the Andhra Pradesh Forest Act, 1967 (Act of 1967) and in cancellation of the notification issued in G.O.Ms.No. 322, Forests and Rural Development Department, dated 15th April 1977 and