

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA.**

**Original Application No. 114/2024/EZ**

**RABINDRA PRADHAN ..... APPLICANT**

**VERSUS**

**STATE OF ODISHA AND OTHERS..... RESPONDENTS.**

**I N D E X**

Sl. No.	Description of documents	Pages.
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1.	Counter affidavit filed by Respondent No.6 including Annexures	... 01-16
	...	
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Cuttack.

Dt. 19.09.2024

  
Addl. Govt. Advocate

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**RABINDRA PRADHAN ..... APPLICANT**

**VERSUS**

**STATE OF ODISHA AND OTHERS..... RESPONDENTS.**

**COUNTER AFFIDAVIT FILED BY**  
**RESPONDENT NO.6.**

I, Smt. Poornima P., aged about 33 years, D/o. Pandian M., at present working as Divisional Forest Officer, Khordha Forest Division, At/P.O./Dist.- Khordha, do hereby solemnly affirm and state as follows:-

1. That, I am working as Divisional Forest Officer, Khordha Forest Division, hereinafter referred to as the answering respondent No.6 and as such I am competent to swear this affidavit in my official capacity.
2. That the averments made in Para-1 to 3 of the Original Application need no comments.
3. That as regards in Para-04 it is submitted that, it is evident from record that, the kissam of the land i;eKhata no. 387 Plot no.1793 area 1.70ac in Jhadapada mouza under Ranpur Tahsil of Nayagarh District is

*Poornima P*  
**Divisional Forest Officer  
Khordha Division, Khordha**



*[Handwritten Signature]*

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Chhota Jungle and no diversion proposal has been received from any corner for sanction under the Forest Conservation Act 1980.

It is pertinent to mention here that, the Sarapanch, Jhadpada Gram Panchayat has applied for sanction of a piece of land for construction of community centre and fair price shop of Jhadpada mouza of Ranpur Block of Nayagarh District under section-3(2) of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the following plot on 24.01.2024.

Poojendra P

Divisional Forest Officer  
Khordha Division, Khordha

Record	Year of Settlement	Plot No.	Khata No.	Kisaam	Mouza
Sabik	Prior to 1998	1005	192	Chhota Jungle	Jhadpada
Hal	1998	1795	387	Patita	

Considering all the facts & circumstances of the case necessary permission has been granted by the D.F.O for diversion of 0.488ha of Forest land for construction of community centre and fair price shop of Jhadpada mouza of Ranpur Block under Nayagarh District under section-3(2) of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Permission was provided for "Community Centre" and "fair price Shop" only on plot No.1795 strictly in conformity with FRA,2006, section 3(2) and not for Gram Panchayat office over



Signature

plot No. 1793. The copy of the said order is annexed as Annexure-A.

4. That as regards in Para-05&06 it is submitted that, as per the direction of the Hon'ble NGT, EZ, Kolkata, a committee was constituted by the Collector, Nayagarh vide his office order No.1220 dtd. 29.06.2024 comprising of following members,

- i. District Magistrate, Nayagarh or his representative not below the rank of ADM.
- ii. DFO, Khordha or her representative not below the rank of ACF.
- iii. Senior Scientist, Odisha State Pollution Control Board.

The committee members proceeded to the spot on 02.07.2024. At the time of inspection the Tahasildar, Ranpur, the Revenue supervisor, the Revenue Inspector, Sarpanch Jhadapada G.P and Panchayat extension officer remained present on the spot. The Range officer, Ranpur and some of the villagers of Jhadapada also participated in the enquiry.

On thorough verification of records and land, the committee found that a room exists over the aforesaid land which is approximately 489 sq.ft and Jhadapada G.P office is functioning there temporarily as stated by Sarpanch, Jhadapada and villagers.

*Poamona P*  
 Divisional Forest Officer  
 Khordha Division, Khordha



*D. K. SINGH*

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Further it was evident that the Tahsildar, Ranpur had initiated an OPLE case bearing no.293/2020-21 against the encroacher Sri Nityananda Jena for this unauthorized encroachment of Govt. land.

As per report of the committee it was ascertained that there is no existence of dense growth of forest species on remaining area of plot beyond this building except that a few trees exists sporadically here and there. On further verification it was ascertained from the villagers that Sri Nityananda Jena has constructed the building on behalf of the villagers utilizing the village common fund for running the village library- NilakantheswarPathagara. This respondent has no knowledge about the other facts and circumstances narrated by the applicant in this para.

5. That the averments made in Para-07 of the Original Application need no comments.

6. That as regards in Para-08 it is submitted, as per report of the committee constituted by the Collector, Nayagarh vide his office order No.1220 dtd 29.06.2024, the Sarapancha, Jhadapada G.P. admitted during the course of enquiry that, the Jhadapada Grama Panchayat is functioning temporarily on the above stated one room building existing on Khata No.387 Plot No. 1793, Kissam- Chhota Jungle of Mouza- Jhadapada. Further, it was stated by most of the villagers, the Panchayat Extension Officer and the

*Poojendra P*  
 Divisional Forest Officer  
 Khordha Division, Khordha



*[Handwritten signature]*

Sarapancha that originally Jhadapada G.P. was part of Mayurjhalia G.P. Subsequently, the Govt. decided to constitute the new Jhadapada G.P. comprising of village Jhadapada and Bokakhai which also has a separate hamlet namely Kanchanpur as is called by the local people.

7. That as regards in Para-09 it is submitted that, as per report of the committee Sri Nityananda Jena (Respondent No. 12) as representative of the villagers has constructed the building on Khata No. 387, Plot No. 1793, Kissam- Chhota Jungle of Mouza-Jhadapada for the purpose of village Library by utilizing village funds for the sake of common interest. As the G.P. is a new one and it does not have yet its own building due to non finalization of land/ a special Grama Sabha had been convened under the chairmanship of the Sarapancha on 27.01.2023, wherein decision was taken to temporarily shift the G.P. office from the village community hall (Kothaghara) where minimum facilities such as toilet were not available and the general public were facing hardship due to space constraints, to this building on Plot No. 1793. They thus shifted the G.P. office to the present building which was constructed for the village library in the name of "NilakantheswarPathagara". Hence; it was found that the Sarapancha has no role for construction of the building on Plot No. 1793 where the G.P. office

*Poojita P*  
 Divisional Forest Officer  
 Khordha Division, Khordha

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is functioning now. It was also confirmed by the P.E.O. of the said G.P. that the G.P. building is functioning in the said building free of rent and no Govt. fund or G.P. funds have been utilized for construction of the building.

8. That as regards in Para-10 it is submitted that, as per the report of the committee, the Sarpancha had submitted an application to Tahasildar, Ranpur for alienation of a portion of the plot for construction of the G.P. building which was rejected by the Tahasildar, Ranpur intimating to the Sarpancha that since ROR has been published after Forest Conservation Act. 1980 came into force; the sabikkisam of the plot was verified and found Chhota jungle, so it cannot be alienated for non forest use. The Sarpancha preferred appeal before Sub-Collector Nayagarh where the Sub-Collector upheld the decision of Tahasildar. Then the Sarpancha filed a writ vide W.P.(C) No. 2308/2021 which was also dismissed and the order of lower court was confirmed. The Hon'ble High Court suggested Sarpancha Jhadapada G.P. to file an application before Collector, Nayagarh identifying another suitable land for construction of GP building.

9. That as regards in Para-11, it is submitted that, the Committee did not find construction of plinth over an area of 1200 sqft. on Plot No. 1795 by cutting down the trees. However, it was found that land leveling on an area of approximately 2000 sqft. has been made on

*Paavina P*  
 Divisional Forest Officer  
 Khordha Division, Khordha



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the plot. No valuable trees were noted to be cut down at the time of land leveling. The satellite image from 2022 of the same area also supported the fact that trees have not been felled during past 2 years. It was seen that in the adjacent area of the alleged plot No. 1795 there are bushy plants of different varieties still available, In this regard, the Sarpancha and the P.E.O explained that they have leveled the land for construction of community centre and fair price shop of the G.P. in 0488 hec. after obtaining permission from the D.F.O., Khurda vide letter No.1143 dtd. 15.02.2024.

However, before giving permission, the D.F.O. had instructed for site inspection and the report submitted to D.F.O. Office revealed that no trees were present in the proposed area. Copy of Revenue Map of Jhadapada mouza and G.P.S map of the plot given permission for construction of Community Centre and Fair Price Shop superimposed on Google earth is attached as Annexure-B.

On verification of land records, it was seen that hal Plot No. 1795 measuring an area of Ac. 1.22 with Kissam- Patita under hal A.J.A. Khata No. 387 of village Jhadapada corresponds to sabik Plot No. 1005 with kissam- Chhota jungle. Since the sabikkissam of the land was Chhota jungle, any change for non forest purpose also attracts the provision of the Forest Conservation Act. 1980. The SarpanchaJhadapadaG.P

Poojina P  
Divisional Forest Officer  
Khordha Division, Khordha

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stated that at the time of creation of Jhadapada G.P. from the mother G.P. Mayurjhalia, the inhabitants of the related village had agreed to have the G.P. headquarter in the central place and accordingly they had decided unanimously to construct their G.P. building on Plot No. 1795, as it is situated in the bi-junction of both the villages. It was found that the Sarpancha has obtained permission under FRA, 2006 from the D.F.O., Khurda for construction of community centre and fair price shop on part of the plot No. 1795 vide letter No. 1143 dt. 15.02.2024. Accordingly they have made land leveling only on a small portion of the plot without cutting any trees but have not gone ahead with any foundation or construction activities.

As per the report of the committee, the Sarpancha had submitted an application to Tahasildar, Ranpur for alienation of a portion of the plot for construction of the G.P. building which was rejected by the Tahasildar, Ranpur intimating to the Sarpancha that since ROR has been published after Forest Conservation Act. 1980 came into force; the sabikkisam of the plot was verified and found Chhota jungle, so it cannot be alienated for non forest use. The Sarpancha preferred appeal before Sub-Collector Nayagarh where the Sub-Collector upheld the decision of Tahasildar. Then the Sarpancha filed a writ vide W.P.(C) No. 2308/2021 which was also dismissed and

*P. Senapati*  
 Divisional Forest Officer  
 Khordha Division, Khordha

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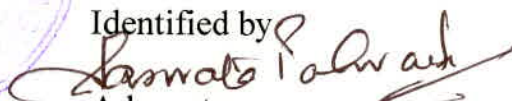
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the order of lower court was confirmed. The Hon'ble High Court suggested Sarapancha Jhadapada G.P. to file an application before Collector, Nayagarh identifying another suitable land for construction of GP building. The land plan prepared by the Tahasildar, Ranpur is enclosed herewith as Annexure-C for better appreciation of the matter.

On the above facts & circumstances the allegation made by the applicant against OP No. 6 has no merit and is liable for dismissal. 11. That in view of the above submissions made by this deponent, the prayer made in the Original Application is devoid of any merit and liable to be rejected. Consequently, the Original Application being devoid of merit is also liable to be dismissed.

12. That the contents of the above paragraphs are true and correct to the best of knowledge as derived from the official records and that nothing material has been concealed there from and the present deponent reserves the right to file further affidavit as and when required and directed by this Hon'ble Tribunal.



Identified by  
  
 Advocate

  
 Deponent  
 Divisional Forest Officer  
 Khordha Division, Khordha

X

**VERIFICATION**

I, Smt. Poornima P. , aged about 33 years, D/o. Pandian M., at present working as Divisional Forest Officer, Khordha Forest Division, At/P.O./Dist.- Khordha, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge as derived from official records and that nothing material has been concealed there from.

Verified at Cuttack on this the                      day of  
September, 2024.

Cuttack.

Dt. .09.2024.

*Poornima P*

VERIFICANT

**Divisional Forest Officer  
Khordha Division, Khordha**

*+*

**CERTIFICATE.**

Certified that due to non-availability of cartridge paper the contents of this counter affidavit have been typed in thick white paper.

Cuttack.

Dt. .09.2024.

*Somato Palwalk*  
Addl. Govt. Advocate

**AFFIDAVIT.**

No 1723/dt 19.9.24

The above deponent being personally known to me appears before me. 19.09.24...at 04.10 AM/PM and states an oath that the contents of the counter are true to the best of her knowledge based on official records.

Identified by:

*Joacima P*

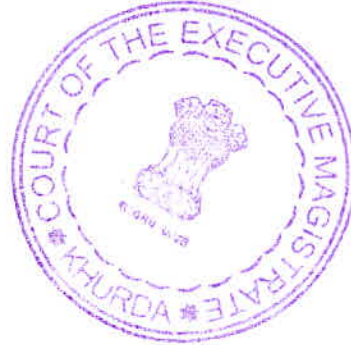
Deponent.

**Divisional Forest Officer  
Khordha Division, Khordha**

*[Signature]*

Executive Magistrate, Khordha

**Executive Magistrate  
Khordha**



OFFICE OF THE DIVISIONAL FOREST OFFICER: KHORDHADIVISION, KHORDHA  
AT / PO / DIST. – KHORDHA  
Tele No. (06755), 222825  
Email ID – [dfo.khordha@odisha.gov.in](mailto:dfo.khordha@odisha.gov.in)

Letter No. 1143 /4F (Misc)-12/2024  
Dated, Khordha 15<sup>th</sup> February, 2024

To,

The Sarapanch,  
Jhadapada Gram Panchayat.

Sub: Grant of Permission for diversion of 0.488 Ha./Ac.1.220 of forest land for construction of community center and fair price shop of Jhadapada mouza of Ranpur block, Nayagarh district under Section-3(2) of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Ref: Your Office Letter No. 54 dated 24.01.2024.

Sir,

A proposal for diversion of forest land for diversion of forest land under Section-3(2) of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for construction of community center and fair price shop for the public utility in the Hall- Khata no. 387, Plot no.1795, kizam- Patita and Sabik Khata no. 192, Plot no. 1005 of Kizam- Chhota jungle in Athakahani Mundia of Jhadapada mouza, GP- Jhadapada of Ranpur block in Nayagarh district was received by this office on dated 25.01.2024. This area of **0.488 Ha./Ac.1.220** is coming under Athakahani Mundia of Jhadapada mouza. The concerned Gram Sabha has passed a resolution in favour of the project on dated 15.08.2023. The Range Officer, Ranpur has examined & scrutinized the project for its eligibility as per the guidelines prescribed by Govt. of India, Ministry of Tribal Affairs vide their letter No. 23011/15/2008-SG-II dtd. 18.05.2009.

***Keeping in view the above circumstances, the project proposal is approved & permission is hereby accorded in favour of the Sarapanch, Jhadapada Gram Panchayat necessarily (herein referred to as User Agency) subject to fulfillment of the following conditions.***

1. The Status of the land shall remain unchanged.
2. The Forest land allowed for diversion of forest land for construction of community center and fair price shop for the public utility in the middle place of the Gram Panchayat i.e Hall- Khata no. 387, Plot no.1795, kizam- Patita and Sabik Khata no. 192, Plot no. 1005 of Kizam- Chhota jungle in Athakahani Mundia of Jhadapada mouza, GP- Jhadapada of Ranpur block under Nayagarh district shall not be used for any other purposes.
3. Area shall be demarcated by you in the field and after demarcation the existing forest land should be improved by the User Agency under supervision of Gram Sabha / Palli Sabha.

Photocopy Attested  
Joanima  
Divisional Forest Officer  
Khordha Division, Khordha

11/2/11

4. No trees are found to be felled.
  5. No trees are to be trimmed during construction of community center and fair price shop for the public utility in the middle place of the Gram Panchayat i.e Hall- Khata no. 387, Plot no.1795, kizam- Patita and Sabik Khata no. 192, Plot no. 1005 of Kizam- Chhota jungle in Athakahani Mundia of Jhadapada mouza, GP- Jhadapada of Ranpur block under Nayagarh district as per the proposal approved.
  6. No crushing/ breaking of stones shall be allowed inside forest areas. Materials shall be procured from authorized source for use in the project.
  7. No labour camps shall be established on the forest land.
  8. No work shall be allowed after sunset.
  9. The implementation for diversion of forest land for construction of community center and fair price shop for the public utility in the middle place of the Gram Panchayat i.e Hall- Khata no. 387, Plot no.1795, kizam- Patita and Sabik Khata no. 192, Plot no. 1005 of Kizam- Chhota jungle in Athakahani Mundia of Jhadapada mouza, GP- Jhadapada of Ranpur block under Nayagarh district shall not obstruct natural flow of water.
  10. The User Agency shall be responsible for any loss to the flora/ fauna in the surroundings & therefore shall take all possible measures to conserve the same. Any damage done in this regard shall be compensated by the User Agency within the project cost as per the assessment of the DFO, Khordha.
- An undertaking by the User Agency** is required to be submitted in the office of the Range Officer, Ranpur before execution of work of the approved project.

Encl : As above

Yours faithfully,

*[Signature]*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

Memo No. 1144 /Date. 15.02.2024

Copy forwarded to the District Welfare Officer, Khordha & Nayagarh for information and necessary action.

*[Signature]*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

Memo No. 1145 /Date. 15.02.2024

Copy forwarded to the Range Officer, Ranpur for information and necessary action with reference to your memo no. 71 dated 05.02.2024. He should monitor the progress of construction work during execution & any deviation to the stipulations mentioned above by the User Agency should be dealt/ reported accordingly. **An undertaking by the User Agency** to abide by the above stipulations should be obtained before allowing improvement work. He shall submit the same undertaking to this office for record & reference. Two sets of the approved proposal are sent herewith for your reference. He is also directed to visit the work at any time on the spot & follow up the instructions laid down in guideline, Government of India & make sure to obtain undertaking from the User agency (Form of undertaking enclosed).

*[Signature]*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

Photocopy Attested  
*[Signature]*

Divisional Forest Officer  
Khordha Division, Khordha

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Memo No. 1146 /Date. 15.02.2024

Copy forwarded to the Tahasildar, Ranpur for information and necessary action with reference.

*P. S. Patra*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

Memo No. 1147 /Date. 15.02.2024

Copy forwarded to the Sub-Collector, Khordha / Nayagarh for information &amp; necessary action.

*P. S. Patra*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

Memo No. 1148 /Date. 15.02.2024

Copy forwarded to the Collector &amp; District Magistrate, Khordha / Nayagarh for favour of kind information &amp; necessary action.

*P. S. Patra*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

Memo No. 1149 /Date. 15.02.2024

Copy forwarded to the Regional Chief Conservator of Forests, Bhubaneswar for favour of kind information &amp; necessary action.

*P. S. Patra*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

Memo No. 1150 /Date. 15.02.2024

Copy forwarded to the Principal Chief Conservator of Forests (Forest Diversion &amp; Nodal Officer, FC, Act, O/o the Principal Chief Conservator of Forests, Odisha, Bhubaneswar for favour of kind information &amp; necessary action.

*P. S. Patra*  
15/2/24  
Divisional Forest Officer,  
Khordha Division, Khordha

True copy attested

*P. S. Patra*  
Divisional Forest Officer  
Khordha Division, Khordha

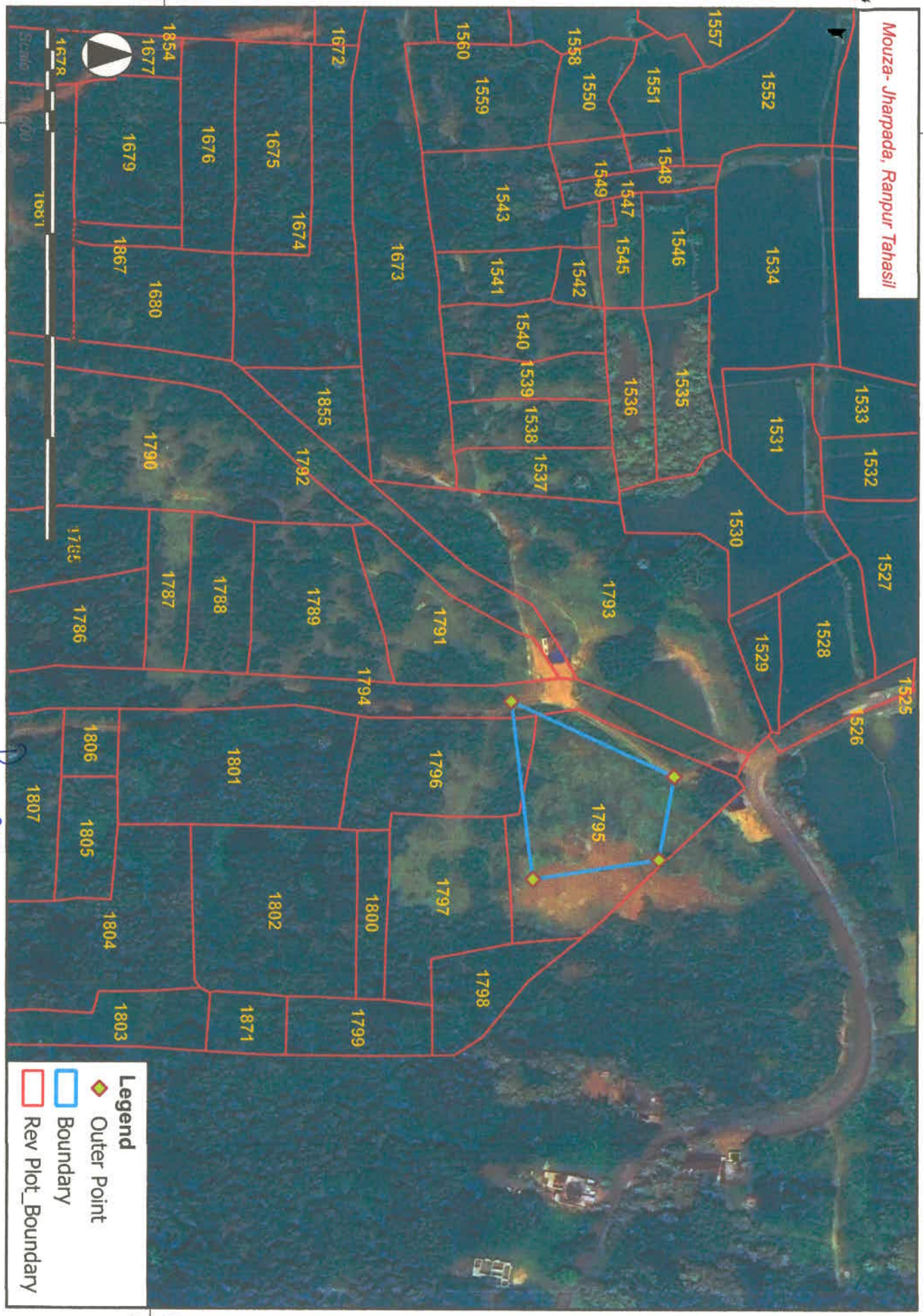
Mouza - Jharpada, Ranpur Tahasil

85°23'20"

20°0'40"

20°0'40"

85°23'20"



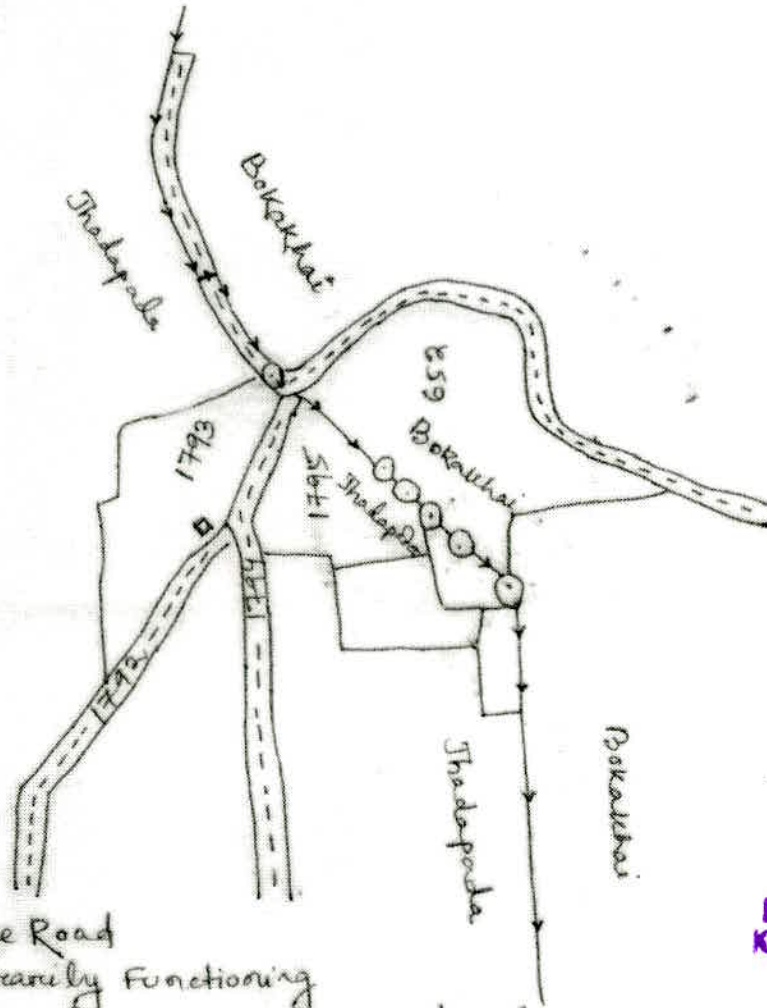
**Legend**

- ◆ Outer Point
- Boundary
- Rev Plot\_Boundary

*pausgm*  
 Divisional Forest Officer  
 Kherdha Division, Kherdha



Village - Jhadapada  
 Thana - Rampur No-204  
 Tahasil - Rampur No-204  
 District - Nayagarh  
 Scale - 16 inch = 1 mile  
 Year - 1995-96



==> Village Road  
 □ -> Temporarily Functioning of Gram Panchayat Office, Jhadapada

---> Boundary of village - Jhadapada and Bokakhal

Khata no - 387 (Abada Jogye Anabali)

plot no - 1793 = Area - Ac 1.70 dec kisson - Patita

plot no - 1795 = Area - Ac 1.22 dec kisson - Patita

The G.P office is functioning over plot no - 1793 of an area Ac 0.01, 122 Bk or 489 square feet.

True copy attested  
 P  
 Divisional Forest Officer  
 Khordha Division, Khordha

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*[Handwritten signature]*  
 4/7/2024  
 Revenue-Inspector  
 Jhadapada

*[Handwritten signature]*  
 18/7/24  
 Tahasildar, Rampur

*[Handwritten signature]*  
 31-7-2024  
 Addl. Dist. Magistra  
 NAYAGARH