

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****EASTERN ZONE BENCH, KOLKATA****ORIGINAL APPLICATION NO -76 OF 2023****IN THE MATTER OF:****WILDLIFE SOCIETY OF ORISSA** - -- Applicant

Verses

STATE OF ODISHA AND OTHERS Respondents**INDEX**

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DATE: 21/10/2024

SANKAR PRASAD PANI

ADVOCATE,

Plot No 2132/4814, NageswarTangi, Bhubaneswar 751002, sankarprasadpani@gmail.com

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO -76 OF 2023

IN THE MATTER OF:

WILDLIFE SOCIETY OF ORISSA - -- Applicant

Verses

STATE OF ODISHA AND OTHERS Respondents

REJOINDER TO THE AFFIDAVIT FILED BY DFO KORAPIUT

DATED 28/06/2024

I, **Biswajit Mohanty S/o Biswanath Mohanty aged about 60 years, At/PO-Santikunja, Link Road Cuttack, Dist-Cuttack, Odisha -753012**, do hereby solemnly affirm and declare as under:

1. That I am the Secretary of the Applicant Organisation in the above mentioned Application. I am fully conversant with the facts and circumstances of the case and therefore competent to swear this Supplementary Affidavit.
2. That para 5& 6 of the affidavit states that the land in question is notified a s forest land hence Forest Conservation Act will not be applicable. It is submitted that the aforesaid paragraphs are not true/ incorrect as because Forest Conservation Act is not only applicable to notified forest land but also to the revenue category of forest and other categories of forest. So for the land in the present case is recorded as **“JUNGLE BLOCK”**.

3. That the para 7 of the affidavit says that the canopy density of this particular patch as non forest relying on the decision support system (DSS) of Forest survey of India. It is pertinent to mention here that canopy density is not the only criteria to decide the category of land rather that is a supplementary data to access the density of forest cover and not the forest land.
4. That so as to substantiate the claim the applicant society relies on the proceedings of district level committee of Forest Rights Act in similarly situated cases in the same Tahasil and District Korapur wherein few claims have been approved under Forest Rights Act and the claim of individuals and community have been recognized under the said act .
5. In addition to this the forest department have also approved the forest diversion proposal under Subsection-2 of Section-3 of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Malingigura village, GP Muthai of Semiliguda Block, District Koraput over an area of 0.033ha. Jungle Block status land as per village sheet is accepted for the Installation of Mobile Tower. Copy of the letter dated 15/09/2024 by DFO-cum- Wildlife warden Koraput Division to Forest Range Officer, Semiliguda Range requesting to divert the land in favor of the user agency is annexed here unto as **ANNEXURE-1**.
6. Also the map suggests the area outside boundary of the village are categorized as JUNGLE BLOCK throughout the district. One such instance in the village Malkarbanda and Karedi wherein the area beyond the village boundary has been mentioned as JUNGLE BLOCK hence in most part of Koraput where the lands are not part of revenue village and now those are called as unsurveyed lad and now have been

called as JUNGLE BLOCK. Copy of the village map of Malkarbanda and Karedi is annexed here unto as **ANNEXURE-1A**.

7. As because the land recorded as JUNGLE BLOCK are being considered as forest land and approval for diversion of forest land and recognition of Forest Rights Act are considered for all such land as if the forest land, hence the term jungle block which in this case are claimed as unsurveyed land by the district authority is nothing but a forest land.
8. Nevertheless after fully operationalization of ecotourism complex at Deomali now there are hips of plastic and waste on top of the hill leading to degradation of such a pristine environment and biological hotspot, hence the influx of tourist without any carrying capacity study will have a serious adverse impact on the environment of Deomali which cannot be restored on long term basis at Deomali hill of Koraput district.
9. That the applicant do not intent to oppose any kind of grant of titles to the eligible tribals or forest dwellers under Forest Rights Act but unfortunately after this proceeding before the Hon'ble NGT the Forest Rights Recognitions over JUNGLE BLOCK kissam land have been stalled and the poor tribal people are deprived of their rights over such forest land.
10. It is pertinent to mention here that on dated 01/03/2024 a District Level Committee Meeting was held under the Chairmanship of Collector Koraput for IMPLEMENTATION OF SCHEDULED TRIBES & OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006 IN COLLECTORATE CONFERENCE HALL, KORAPUT, in this meeting the Project Administrator, I.T.D.A., Koraput placed 400 nos. of individual claims before the committee (SDLC Koraput-337 & SDLC Jeypore-63) which

were duly approved and recommended by SDLC Koraput. After scrutiny of the applications the committee found that 392 individual claims are valid in all respect and unanimously approved in DLC. From the 392 approved claims 118 claims are from the Pottangi Tahasil of Koraput District and the land recorded in the kissam of JUNGLE BLOCK (JB).

11. It is pertinent to mention here that on the same meeting the committee also approved some community claims under Forest Right Act, the Project Administrator, I.T.D.A., Koraput placed 49 Nos. of Community claims both in Form B & C (Pottangi-35, & Boipariguda-14) before the committee which were duly approved and recommended by SDLC Koraput. On scrutiny of the applications the committee found that 24 claims are valid in all respect and unanimously approved in DLC & 25 CR/CFR (Pottangi-21 & Boipariguda-4) are remanded to concerned SDLCs. Among the 24 duly approved Community claims 14 are from the Tahasil Pottangi. Copy of the Proceedings of the District Level Committee is annexed here unto as **ANNEXURE-2**.
12. That in view of the above mentioned paragraphs it is humbly prayed before this Hon'ble Tribunal, that the land should be considered as Forest land and the constructions made on the said land should be demolished.

APPLICANT THROUGH



ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO 76 OF 2023

IN THE MATTER OF:

Wildlife Society of Orissa

APPLICANT

VERSUS

State of Odisha and Others ...

RESPONDENTS

AFFIDAVIT

I, Biswajit Mohanty S/o Biswanath Mohanty aged about 61 years, At/po-Santikunja, Link Road Cuttack, Dist-Cuttack, Odisha -753012 do hereby solemnly affirm, and declare as under:

1. That I am the Secretary of the Applicant Organisation, Wildlife Society of Orissa in the abovementioned application and authorized to sign this affidavit.
2. I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
3. That I have read over the contents of the accompanying Rejoinder Affidavit and the same is true and correct and is drafted on my instruction.

For WILDLIFE SOCIETY OF ORISSA

Biswajit Mohanty
SECRETARY

DEPONENT

VERIFICATION:-

Verified on this the 21st day of October, 2024 at Cuttack .that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

For WILDLIFE SOCIETY OF ORISSA

Biswajit Mohanty
SECRETARY
DEPONENT

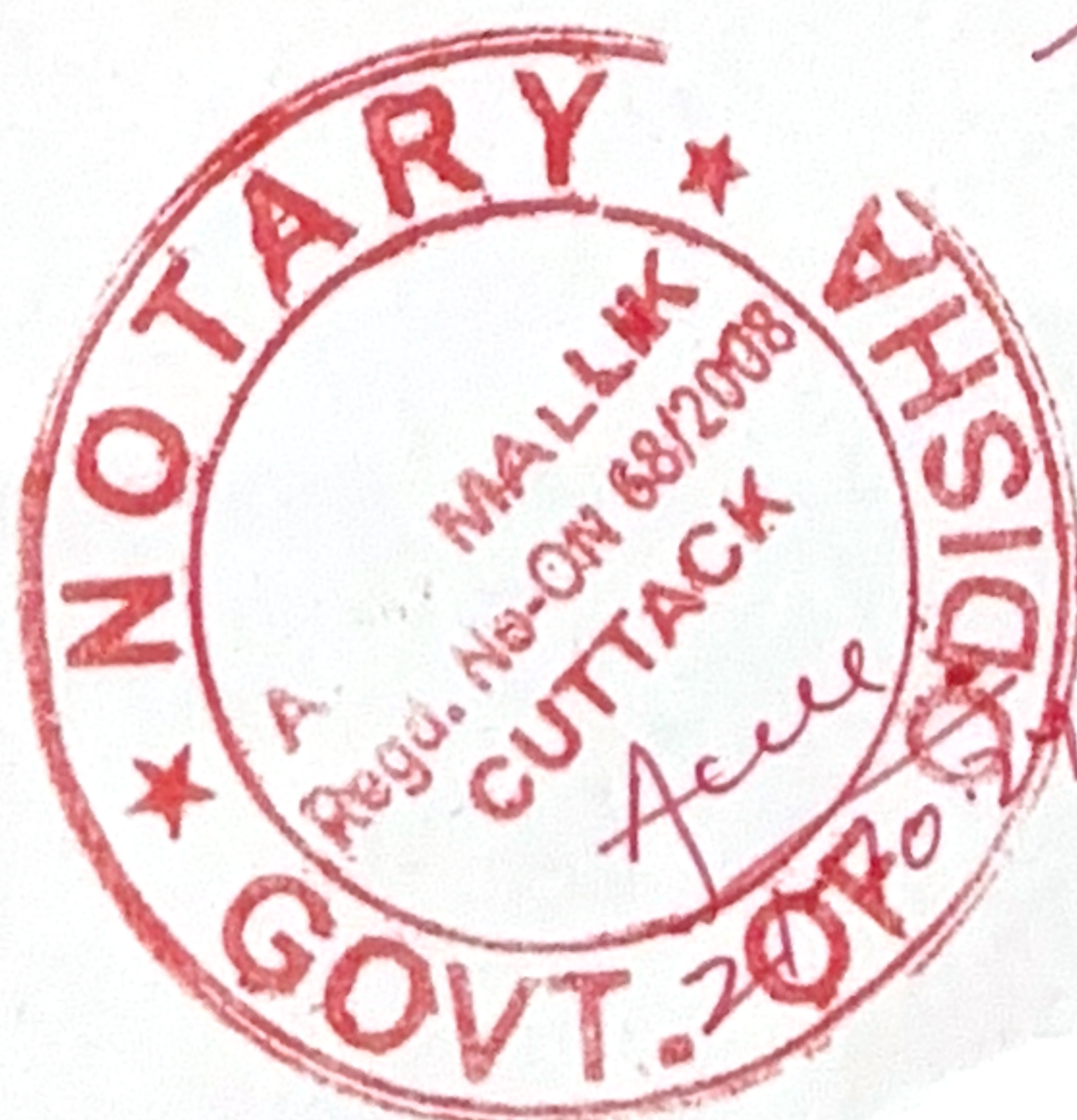
Secretants Signature
attested on identification
by *N.C. Dash*

A. K. Mallik
Notary Cuttack Town.

Identified By

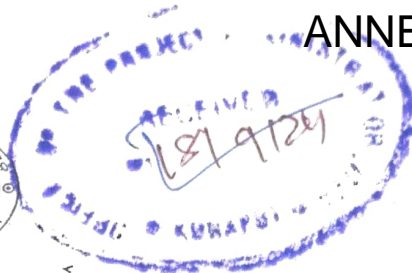
Nousha ch Dash
Advocate

19/10/2024



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ANNEXURE-1 476



ବନଖଣ୍ଡଅଧିକାରୀଓବନ୍ୟପ୍ରାଣୀତତ୍ତ୍ୱାବଧାରକକାର୍ଯ୍ୟାଳୟ, କୋରାପୁଟ
**OFFICE OF THE DIVISIONAL FOREST OFFICER -CUM-
WILDLIFE WARDEN, KORAPUT FOREST DIVISION, KORAPUT**
ଅଭିଯୋଗ କକ୍ଷ (SMS) ନଂ. 9437011270 ଇ-ମେଲ୍: ID-dfo.koraput@odisha.gov.in

Memo No. 4271 /

Dated. 15 / 09 /2024.

To

The Forest Range Officer,
Semiliguda Range.

Sub: -

Proposal for allotment of forest land for Installation of Tower under USOF: -
Aspirational Project.

Ref: -

1. Letter No.RJIL-Tower-USOF-ASP-2024/0118 Dated 14.05.2024.
2. Your Memo No.882, Dated 14.09.2024

As per your recommendation and the Gram Sabha Resolution of Malingigura village, GP Muthai of Semiliguda Block, District Koraput over an area of 0.033ha.of Jungle Block status land as per village sheet is hereby accepted for Installation of Mobile Tower under Subsection-2 of Section-3 of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

You are hereby requested to facilitate for handing over of the above said diverted land by the concerned Revenue authority in your presence for the above purpose to the user agency along with the site map and schedules.

Encl: - Proposal 2 Nos.


15/09/2024
Divisional Forest Officer,
Koraput Forest Division.

Memo No. 4272 /

Dated 15.09. /2024

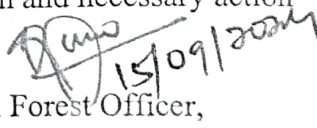
Copy submitted to the Superintendent of Police, Koraput for favour of kind information and necessary action with reference to his application dated 14.09.2024


15/09/2024
Divisional Forest Officer,
Koraput Forest Division.

Memo No. 4273 /

Dated 15/09 /2024

Copy submitted to the Chairman, DLC-Cum-Collector, Koraput / the Member Secretary, DLC cum PA, ITDA, Koraput for favour of kind information and necessary action


15/09/2024
Divisional Forest Officer,
Koraput Forest Division.

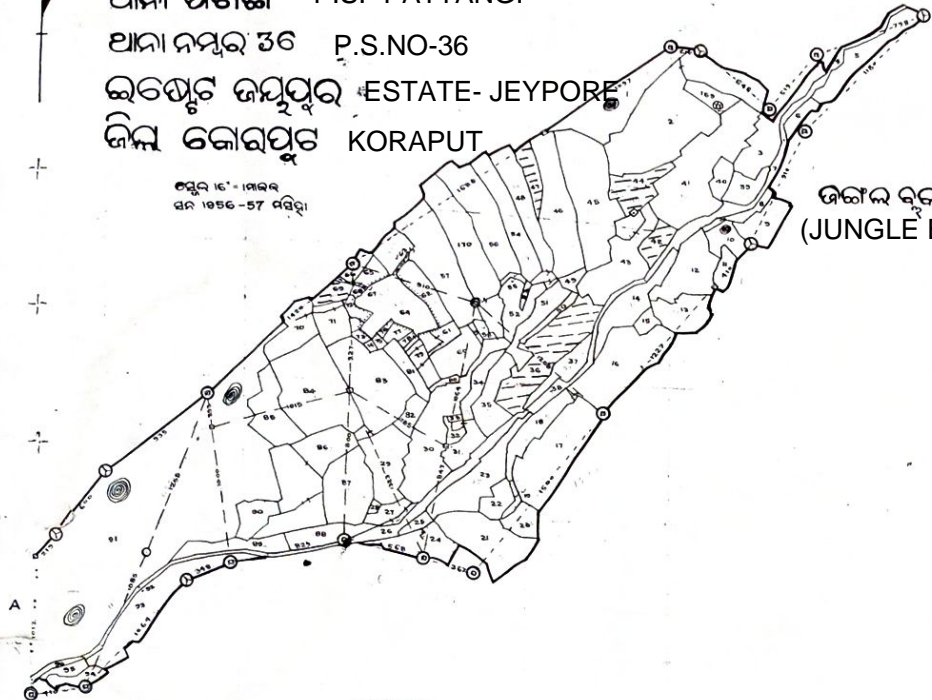


ANNEXURE-1A

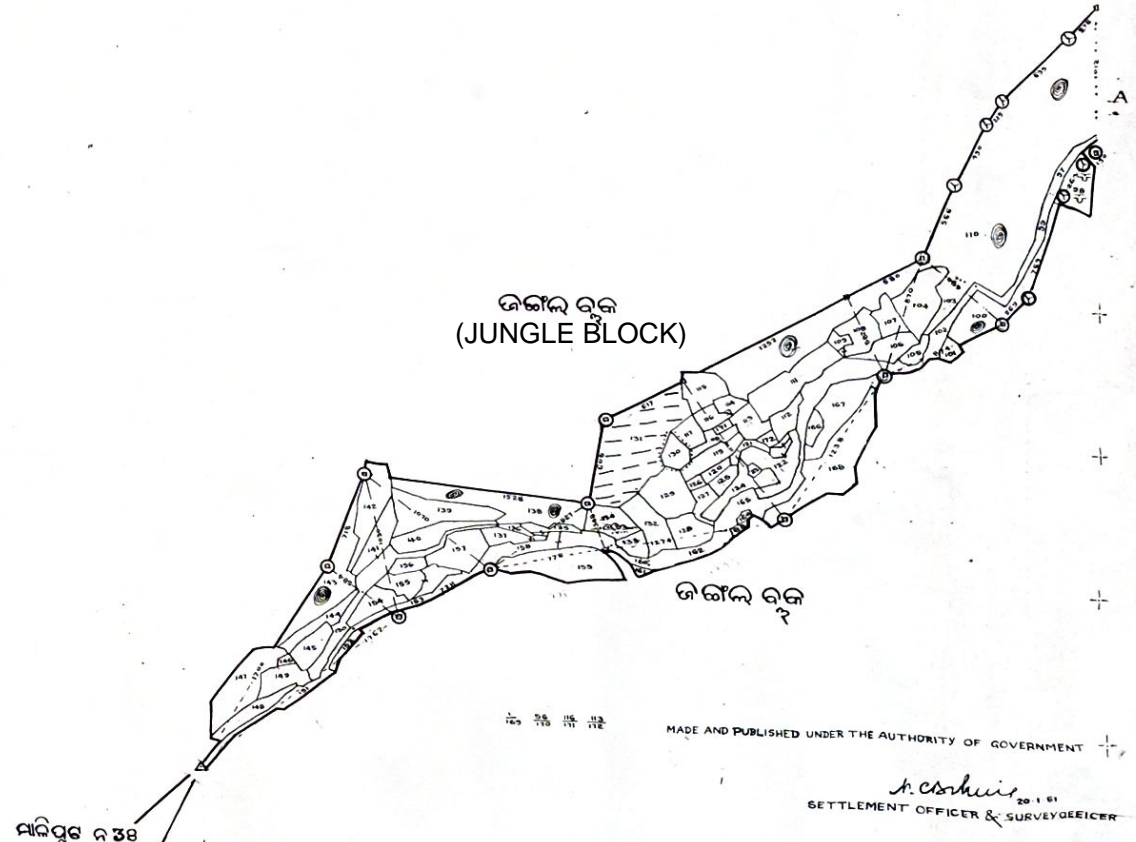
MALKARBANDA
 ମୌଜା ମାଲକାରବନ୍ଦା MOUZA- MALKARBANDA
 ଥାନା ପଟାଙ୍ଗି P.S.- PATTANGI
 ଥାନା ନମ୍ବର ୩୬ P.S.NO-36
 ଇଷ୍ଟେଟ୍ ଜୟପୁର ESTATE- JEYPORE
 ଜିଲ୍ଲା କୋରାପୁଟ KORAPUT








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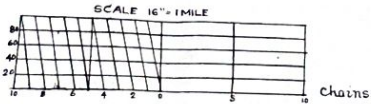
ଜଙ୍ଗଲ ବ୍ଲକ୍
 (JUNGLE BLOCK)



ଜଙ୍ଗଲ ବ୍ଲକ୍
 (JUNGLE BLOCK)



- REFERENCES
-  Village site
 -  Village path
 -  Traverse station
 -  Tryjunction stone
 -  Field stone
 -  Stony ground
 -  Hill
 -  Cremation ground
 -  Grazing ground
 -  Shrub jungle



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S. Chakravarty
 20.1.61
 SETTLEMENT OFFICER & SURVEYOR GENERAL

ମାଲକାରବନ୍ଦା ନ 38

KAREDI

ମୌଜା କାରେଡ଼ି MOUZA- KAREDI

ଥାନା ପଟାଙ୍ଗି P.S.- PATTANGI

ଥାନା ନମ୍ବର 76 P.S. NO.- 36

ଇଷ୍ଟେଟ ଜୟପୁର ESTATE- JEYPORE

ଜିଲ୍ଲା କୋରାପୁଟ KORAPUT

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(JUNGLE BLOCK)

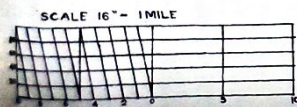
ଜଙ୍ଗଲବ୍ଲକ
(JUNGLE BLOCK)

REFERENCES

-  Village site
-  Village path
-  Traverse station
-  Ternjunction stone
-  Field stone
-  Fallow land
-  Forest
-  Stony ground
-  Cremation ground
-  grazing ground
-  Shrub jungle

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A. Chakrabarti
20.1.61
SETTLEMENT OFFICER & SURVEY OFFICER

~~X~~

PROCEEDINGS OF THE DISTRICT LEVEL COMMITTEE MEETING FOR ON IMPLEMENTATION OF SCHEDULED TRIBES & OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006 HELD ON 01.03.2024 AT 11.00 AM IN COLLECTORATE CONFERENCE HALL, KORAPUT.

The District Level Committee Meeting on implementation of Scheduled tribes & Other Traditional Forest Dwellers (recognition of forest rights) Act, 2006 and Rule 2007 was held on 01.03.2024 at 10.30 AM in Collectorate Conference Hall, Koraput under the Chairmanship of Collector, Koraput. At the outset the Project Administrator, I.T.D.A., Koraput welcomed all the members present and requested Collector, Koraput to preside over the meeting. Following were the members present in the meeting.

1. Collector, Koraput.
2. Sub - Collector, Koraput/ Jeypore
3. Divisional Forest Officer, Koraput / Jeypore
4. Project Administrator, I.T.D.A., Koraput
5. District Welfare Officer, Koraput.
6. M/s Namanti Khila, Z.P Member, Nandapur -2.
7. Shri Raghu Jani, Z.P. Member Koraput -1.
8. Shri Tirupati Challan, Z.P. Member, Kotpad - 2.

APPROVAL OF INDIVIDUAL CLAIMS

The Project Administrator, I.T.D.A., Koraput placed before the committee 400 nos. of individual claims (SDLC Koraput-337 & SDLC Jeypore-63) duly approved and recommended by SDLC Koraput. On scrutiny of the applications it is found that 392 individual claims are valid in all respect and unanimously approved in DLC. (Beneficiary list is at Annexure-I).

The details of approved claims are placed below:

Name of the SDLC.	Name of the Tahasil / Block.	Name of the GP	Name of the Village	No. of Individual Claims approved by the DLC in the present meeting	Kisa m	Area (in Ac.)
Koraput	Koraput	Dumuripadar	Pendajam	11	J.B.	1.71
	Pottangi	Kotia	Suliamari	33	J.B.	46.31
			Paniki	61	J.B	178.21
			Majaguda	24	J.B	38.60
	Semiliguda	Dudhari	Mandaraguda	54	P.J. & J.B	30.10
	Nandapur	Kasandi	Rudichuan	10	J.B	4.00
	Laxmipur	Burja	Chilisankha	47	J.B	88.40
		Goudaguda	Goudaguda	78	J.B	84.20
	Bandhugaon	Nilabadi	Chekapadu	8	J.B	11.70
		Kapaloda	Rebatiguda	11	J.B	17.10
Jeypore	Boipariguda	Chipakur	Purunapani	19	R.L	110.21
			Kolathajodi	36		151.12
TOTAL				392		

Further 08 Individual claims are remanded to SDLC, Jeypore for necessary compliance. (Beneficiary list is at Annexure-I)

APPROVAL OF COMMUNITY CLAIMS

The Project Administrator, I.T.D.A., Koraput placed before the committee 49nos. of Community claims both in Form B & C (Pottangi-35, & Boipariguda-14) duly approved and recommended by SDLC Koraput.

On scrutiny of the applications it is found that 24claims are valid in all respect and unanimously approved in DLC & 25 CR/CFR (Pottangi-21 & Boipariguda-4) are remanded to concerned SDLCs. (Details at Annexure-III & IV).

The abstract of approved CR and CFR claims are placed below:

Name of the SDLC.	Name of the Tahasil / Block.	No. of Community Claims approved by the DLC in the present meeting.		Kisam	Area (in Ac.)
		Community Rights (B)	Community Resource Rights (C)		
Koraput	Pottangi	14	14	J.B	2376.15
Jeypore	Boipariguda	10	10	R.F	1340.50
Total-		24	24		3716.62

REJECTION OF INDIVIDUAL CLAIMS

The Project Administrator, I.T.D.A., Koraput placed before the committee 95nos. of individual claims (Borigumma-60 & Jeypore-35) duly rejected by SDLC Jeypore for final rejection at DLC Koraput. On scrutiny it is found that 95 claims are not eligible to settle under FRA and unanimously rejected by DLC.(Beneficiary list in Annexure-V).

The abstract of rejected claims are placed below:

Name of the SDLC.	Name of the Tahasil / Block.	No. of Individual Claims rejected by the DLC in the present meeting.	Area (in Ac.)	Reason for rejection
Jeypore	Borigumma	60	147.40	Non-Forest land, Encroachment after 13.12.2005, Patta already taken
	Jeypore	35	15.20	OTFD & Non- Forest land
Total-		95	162.60	

APPROVAL OF DIVERSION OF FOREST LAND FOR CONVEYOR CORRIDOR & PIPE LINE PROJECT OF POTTANGI BAUXITE MINES, NALCO

The Project Administrator, I.T.D.A., Koraput informed the DLC that 01 no. of claims have been received for diversion of 42.151 Ha. forest land (41.297 Ha for Conveyor Corridor & 0.854 Ha. for Pipe line Project) of Pottangi Bauxite Mines, NALCO.

The proposal is pertaining to Pottangi Tahsil having area 11.789 Ha and Semiliguda Tahasil having area 30.362 Ha. under Koraput Sub-Division.

As the proposed diversion relates to linear diversion of use of forest land where the resolution of Gram Sabha not required as per F. No. 11-98-FC dt: 28.10.2014 Govt. of India Ministry of Environment & Forest unless recognized rights of Primitive Tribal Groups (PTG) and Pre - Agricultural Community (PAC) are being affected, are exempted from the requirement of obtaining consent of the concerned Gram Sabha(s) as stipulated in clause (c) read with clause (b), (e) and (f) in second of this ministry said letter dtd: 03.8.2009.

Further the proposal has been duly approved by the SDLC Koraput on 17.02.2024 and as per the proceedings received from SDLC Koraput and the survey reports from 02 blocks there is no Primitive Tribal Groups (PTG) and Pre-Agriculture Community (PAC) exist in the proposed project and no FRA titles approved or pending for approval in the forest land proposed for diversion the proposal is unanimously approved by the committee as detailed below.

Detail information on Diversion Proposal for Pottangi Bauxite Mines

Sl No	Name of the Sub-Division	Name of the Tahsil / Block	Area in Ha. for Conveyor Corridor	Area in Ha. for Pipe line	Total Area in Ha.	Date of SDLC
1	Koraput	Pottangi & Semiliguda	41.297	0.854	42.151	17.02.2024

APPROVAL OF CONVERSION OF UNSURVEYED FOREST VILLAGES INTO REVENUE VILLAGES u/s -3(1) (h) OF FOREST RIGHTS ACT,2006


The Project Administrator, I.T.D.A., Koraput placed before the committee 01 case No.31/23 of Un-surveyed forest village Khialput (V-CT-Code: 04974300) under Chickenpit GP of Lamataput Tahasil which was opened on 18.09.2023 with a General notice by Collector-cum Chairman, DLC ,FRA.

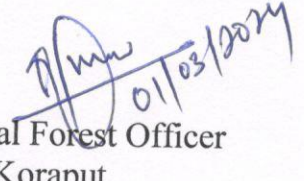
As the village has already been declared as Revenue Village bearing thana no. 89 and RoR of the village has been published in the year 1982, the case record submitted by Tahasildar, Lamataput and SDLC, Koraput to drop the case. Hence as per the proceedings of SDLC the proposals have placed before the committee for final discussion and dropped the cases.

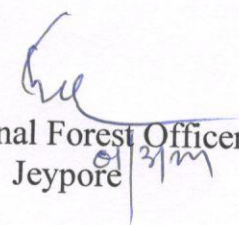


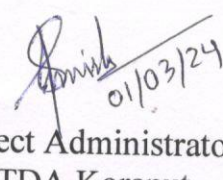
The meeting ended with thanks to the chair and participants.

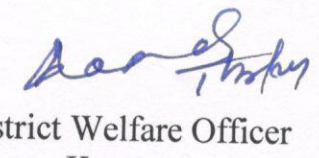

Sub-Collector
Koraput


Sub-Collector
Jeypore

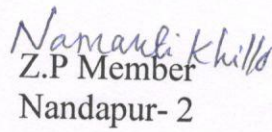

Divisional Forest Officer
Koraput

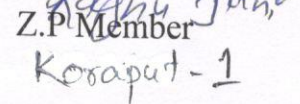

Divisional Forest Officer
Jeypore

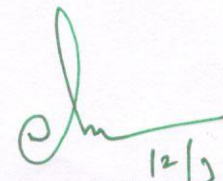

Project Administrator
ITDA, Koraput


District Welfare Officer
Koraput


Z.P Member
Kotpad-2


Z.P Member
Nandapur-2

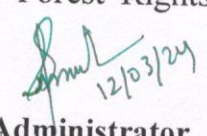

Z.P Member
Koraput-1


Collector – cum –Chairman
District Level Committee,
Koraput

Date : 12/03/2024

Memo. No. 3210/24

Copy to all members of District Level Committee under Forest Rights Act, 2006 for information and necessary action.


Project Administrator
I.T.D.A., Koraput
Convener, DLC under FRA



Sankar Pani <sankarprasadpani@gmail.com>

Rejoinder affidavit on behalf of applicant in OA 76 of 2023 , NGT EZ

1 message

Sankar Pani <sankarprasadpani@gmail.com>

Tue, Oct 22, 2024 at 10:23 AM

To: shakti panda <sppanda13@gmail.com>, Dn Ray <raydnr@gmail.com>

Dear Sir/Madam, please find the attachment.

--

Sankar Prasad Pani, Environment Lawyer
National Green Tribunal Kolkata & Orissa Highcourt
Res-Plot No 2132/4814(B), Nageswar Tangi,
Bhubaneswar, 751002
Cell- 9437279278
Skype- sankar.pani

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