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BEFORE THE NATIONAL GREEN TRIBUNAL
KOLKATA BENCH EASTERN ZONE, KOLKATA

(Original application NO. 225 of 2024)

In the matter of

Alaya Samantray . . . Applicant

-Versus-

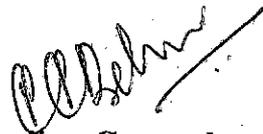
State of Odisha and ors . . . Respondents

INDEX

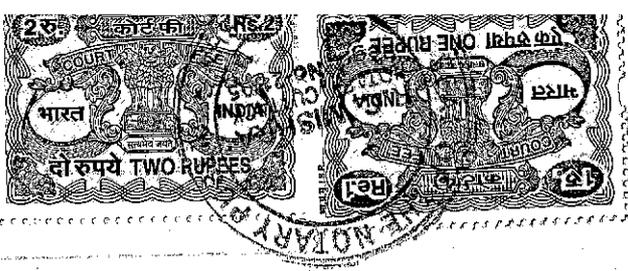
S.L No.	Description of documents	Pages
1.	Counter affidavit filed on behalf of Respondent Nos.3 and 4	1 to 10
2.	<u>Annexure-A/3</u> Copy of the joint inspection report	11 to 12
3.	<u>Annexure-B/3</u> Copy of ROR	13 to 15

CUTTACK

DATE:20.5.2025


Addl. Standing Counsel.

Sri Prabhu Prasanna Behera
Addl. Standing Counsel



BEFORE THE NATIONAL GREEN TRIBUNAL
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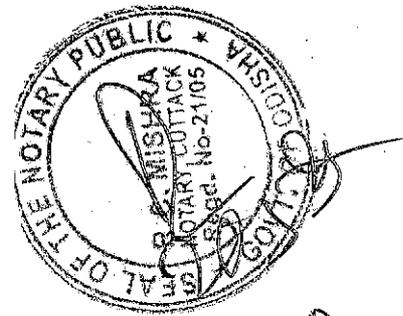
COUNTER AFFIDAVIT FILED BY THE STATE
GOVERNMENT ON BEHALF OF RESPONDENT
NO. 3 & 4

I, Sri Srikanta Parija, aged about 56 years, S/o. Late Kaliprasanna Parija, at present working as Tahasildar, Marshaghai At/PO: Marsaghai, Dist: Kendrapara, do hereby solemnly affirm and state as follows:-

1. That, I am the Opp. Party No.4 and have duly authorized to file this affidavit on behalf of Opp. Party No.3 in the above writ petition. I have gone through the writ petition and understood the contents thereof. I am also acquainted with the facts of the case thus competent to swear this affidavit.

2. That the present original application has been filed by the applicant with following prayer:

Sri Srikanta Parija



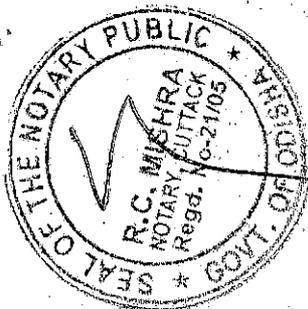
S. Mishra

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- I. "Eviction of unauthorized structures and removal of construction materials and camp office from the Riverbed, Flood Plain and Nayanjori Kisam land.
 - II. Compute the Environmental Compensation and recover the cost of damages and restoration of riverbed.
 - III. Seize the illegally dumped/stacked minor minerals inside the area of Luna river and prosecute the private respondent for illegal encroachment of riverbed.
 - IV. Fix the responsibility of erring officer for lapses and inaction in enforcing the law."
3. That after the order dated 27.11.2024 passed by this Honourable Tribunal, the answering respondent have taken steps for conducting a joint enquiry/inspection in the area which is question in the original application involving the officers of Irrigation Department as well as Revenue Department. The detailed joint inspection report was prepared in view of the order passed by this on Hon'ble Tribunal vide order

Srinivants (10/11/24)

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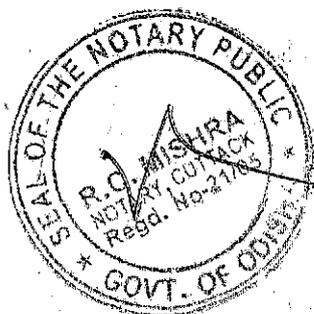
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dated 27.11. 2024. The report suggests that the record of rights of the schedule land in question in the original application is under Abad Ajogya Anabadi, Khata no. 330 of Kisam Nadi i.e. river LUNA under Tahasil Marshaghai of Kendrapara district.

4. That it is observed that adjacent to the land in question, two bridges are being constructed over Luna river at the two sides of the existing road, i.e. National Highway 53, by the National Highway Authority of India through implementing agency, M/s Rajveer Construction Private Limited of Jharkhand. For the above expansion purpose of National Highway-53 from four-lane to eight-lane, construction is going on, and materials Like steel rod, panel board for retaining the Earth, casting and curing and iron shutter panel which are used for making over Bridge, construction are temporarily placed on the riverbed of Luna river, which is to be utilised and if not utilised the remaining materials are to be shifted on completion of the construction of the bridge.

Sankar
Raj

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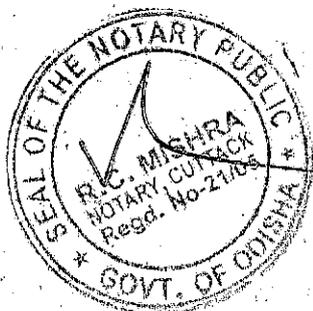
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5. That it is also found that, the private contractor has made some temporary camps made up of galvanised iron sheet which is constructed over the schedule land in question in the original application. The structure which has been made on the scheduled land is not a permanent construction rather a temporary construction which is used for the purpose of watching the materials and as a temporary shed for the labourers of the contractor. It is also observed during the joint inspection that, the allegation of installation of batching plant as well as dumping of minor minerals over the land in question was not found and it was also not seen during the joint inspection. In the joint inspection, it was also found that there is no sight or no clue of illegal extraction of sand from the riverbed. A copy of the joint inspection report of is enclosed here with as ANNEXURE A/3.

6. That in reply to para 1,2,3 and 4, it is humbly submitted that the schedule property in question is admittedly, nearer to the riverbank of Luna river. The allegation of construction of camp as well as batching

Sankar
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plant over the plot number 705/861 of Khata number 330 and Plot number 333, and Khata number 333 is concerned, it is humbly submitted that, in the river bank, there is no permanent construction only temporary shed has been constructed by the contractor for the purpose of having watch over the materials stacked for the purpose of construction of the bridge. Further so far as the construction over the above mentioned plot is concerned, the site Camp has been constructed over a property of plot number 333 and Khata number 333 recorded in the name of Nirman & Paribahan department, Govt of Odisha.

Srikanth 10/12

There is no threat to the free flow of water in Luna river because of such construction. it is because the distance of actual water flow as well as the alleged construction is not very close hence it is submitted that the construction is not at all affecting the free flow of water. By way of such temporary sheds constructed at site Camp the free flow of water is not likely to be affected in any manner whatsoever. The copy of the

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ROR with Khat No. 333 is enclosed herewith as

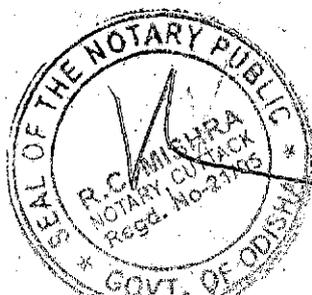
ANNEXURE- B/3.

7. That in reply to the allegations made as to stacking of minor minerals and illegally extracting the sand from the river bed, it is humbly submitted that there is absolutely no sign of illegal extraction of sand in any manner whatsoever. In so far as stacking of materials are concerned, those materials which has been placed/kept in batching stand for the construction of the bridge are all completely temporary in nature. No construction has been made in any manner which would ordinarily affect the environment in any manner whatsoever. However, the Contractor has been constantly, regularly as well as frequently put to check by the answering defendant for not stacking more materials or constructing any permanent structure in the riverbed which would affect the environment.

8. That in reply to the allegations of stacking, the materials in the stockyard, parking the vehicles as well as masonry camp office and dumping the sand, stone chips on the riverbed is concerned, it is humbly

Siddhanta Dasija

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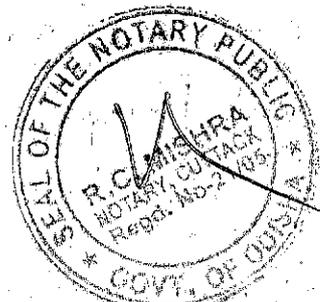
submitted that the allegations are false. Neither the vehicles are parked in the riverbed, nor there is any concrete or permanent construction seen in the riverbed which would affect the free flow of water or the environment in any manner whatsoever.

9. That in reply to Para 5&6 it is submitted that in the riverbed as alleged, there is no batching plant. The site Camp is not inside the riverbed and it is not permanent in nature. The site Camp is constructed in a temporary manner for the purpose of keeping a watch over the materials stacked for the used in construction of the bridge. it is further submitted that for the purpose of establishing a temporary site Camp generally no permission is required. Moreover, when the contractor is making a project for the betterment of the public, then for keeping watch over the materials, if he constructs a small site camp temporarily, then for that purpose consent to establish is generally not required.

रवि
Sarkar

10. That in reply to 6 & 8 it is humbly submitted that the joint inspection has been done and the inspection

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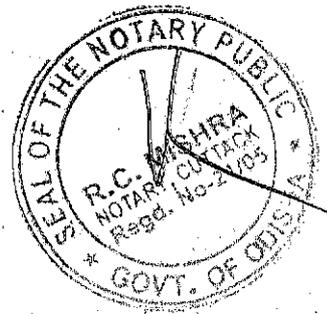
taking due care to protect the environment and not to allow any such illegal construction in the riverbed which would adversely affect the environment and also more particularly create problem for the free flow of water in the river. But in the present case, the construction work, which is actually being done away from the riverbed, and the batching plant is not at all existent in the riverbed in any manner whatsoever. So far as the site camp is concerned, some temporary units are being constructed in brick without plaster in the riverbed and the photographs which has been shown at page number 19 under annexure, those photographs are of the area at plot number 333 of Khata No- 333.

Srikanta Ranj

12. That, in view of the facts and circumstances stated above the Original Application being devoid of any merit and is liable to be dismissed.

13. That, the statements made above in Paragraphs is true to the best of my knowledge and belief and those statement from Paragraphs are true to my information derived from the records and the

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statements made in Paragraph No.12 is submissions before this Hon'ble Court for kind appreciation.

Identified by

Prabhu Prasanna Bahera

Srikanta Parija
2015/25

A.S.O. of A.G.O.
Addl. Standing Counsel.
Sri Prabhu Prasanna Bahera
Addl. Standing Counsel

DEPONENT.
TALASILDAR
MAHABUBCHAI

Solemnly affirmed before me by Sri Srikanta Parija who is

identified before me by *P. P. Bahera*

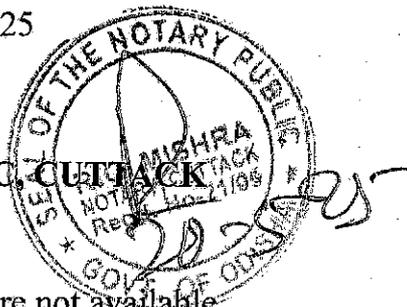
A.S.O, Advocate General's Office whom I personally know.

This the 20th day of May, 2025

Cuttack

Date: 20.5.2025

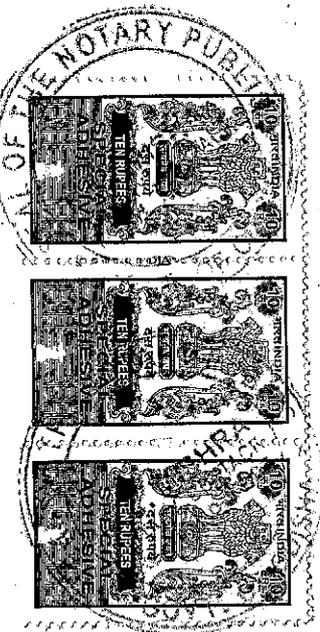
NOTARY PUBLIC, CUTTACK



Certified that Cartridge papers are not available.

Prabhu Prasanna Bahera

Addl. Standing Counsel.



JOINT INSPECTION REPORT OF TAHASILDAR, MARSHAGHAI AND SUPERINTENDING ENGINEER, KENDRAPARA IRRIGATION DIVISION, KENDRAPARA ON 27.01.2025 ABOUT ENCROACHMENT OF THE LUNA RIVER BED AT BADAPALA UNDER MARSHAGHAI TAHASIL BY M/S RAJBIR CONSTRUCTION PVT LTD, JHARKHANDA

As per suggestion received vide letter No. 71434 dated 24.12.24 of the Additional Govt. Advocate to comply the order dated 27th November 2024 of the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata in O.A No. 225 of 2024 filed by Alaya Samantaray Vrs State & others, a joint inspection was done on 27.01.2025 by the Tahasildar, Marshaghai and Superintending Engineer, Kendrapara Irrigation Division, Kendrapara over the land encroached by M/s Rajbir Construction Pvt Ltd, Jharkhanda. The information found during inspection are given hereunder -

- 3.1 As per Record of Right, the case land stands recorded as Plot No. 705 / 861 under Abad Ajogya Anabadi Khata No. 330, Kisam - Nadi, Area - Ac.18.74 in Mouza - Badapala under Marshaghai Tahasil of Kendrapara District and the detail information of the kisam and boundary is mentioned as Luna River.
- 3.2 Adjacent to the case land, two bridges are being constructed over Luna River at two sides of existing road (NH-53) by National Highway Authority of India through the implementing agency M/s Rajbir Construction Pvt Ltd, Jharkhanda which are required for expansion of the National Highway - 53 from 4-laning to 8-laning.
- 3.3 The materials required for construction of the bridges i.e Steel rod, Retaining Earth Panels are kept temporarily on the case land which will be utilized / shifted on completion of the bridge.
- 3.4 Cabins as well as site camp temporarily made up of Galvanized Iron Sheet is constructed over the case land to watch the materials.
- 3.5 Installation of batching plant as well as dumping of minor minerals over the case land is not noticed during joint inspection.
- 3.6 As regards, construction of illegal structure over Plot No. 333 of Khata No. 333, Kisam - Nayanjori of Mouza - Badapala having area Ac.21.66 stands recorded in the name of Nirman O Paribahan Bibhaga of Govt of Odisha and this land is countryside of the river embankment road.

True copy attached

Sam
20/1/25

**TAHASILDAR
MARSHAGHAI**

- 5.1 Information regarding illegal encroachment by constructing structures and stacking of minor minerals over flood plain area of Luna River bed is not noticed during joint inspection.
- 5.2 Labour hutment over flood plain area of Luna River bed is constructed with brick-wall without plastering and roofed by GI sheet with soling brick concrete foundation which are temporary in nature.
- 5.3 Information regarding illegal extraction of sand from the river bed is not noticed during inspection.
- 5.4 Material stock-yard, parking of vehicles and machinery, camp office, dumping of sands and stone chips are noticed over the countryside land of the river embankment road which stands recorded in the name of Nirman O Paribahan Bibhaga of Govt of Odisha.

Rishu
27/11/25
Assistant Engineer
Patkura Section-I
Odisha

P. Munda
27/11/2025
Asst. Executive Engineer
Patkura Irrigation Sub-Division
Patkura

SKM
28/11/25
Tahasildar, Marshaghai

hama
28/11/2025
Superintending Engineer
Kendrapara Irrigation Division
Kendrapara

True copy attached

SKM
20/11/25
Tahasildar
Marshaghai

Schedule I Form No.39-A

ଖତିୟାନ

Annexure-B/3

ମୌଜା : ବଡ଼ପାଳ
 ଥାନା : ପାଟକୁରା
 ଥାନା ନମ୍ବର : 210

ତହସିଲ : ମାର୍ଶାଘାଟ
 ତହସିଲ ନମ୍ବର : 210
 ଜିଲ୍ଲା : କେନ୍ଦ୍ରାପଡ଼ା

କମିସନର ନାମ ଓ ଖେତ୍ରର ବା ଖତିୟାନର କ୍ରମିକ ନମ୍ବର		ଓଡ଼ିଶା ସରକାର ଖେତ୍ର ନମ୍ବର 1, ବ୍ରହ୍ମା ଓଗେର 1,				
1) ଖତିୟାନର କ୍ରମିକ ନମ୍ବର		333				
2) ପ୍ରଜାର ନାମ, ପିତାର ନାମ, ଜାତି ଓ ବାସସ୍ଥାନ		ନିର୍ମାଣ ଓ ପରିବହନ ବିଭାଗ				
3) ସ୍ତର						
4) ଦେୟ :	ଜଳକର	ଖଜଣା	ସେସ୍	ନିସ୍ତାର ସେସ୍ ଓ ଅନ୍ୟାନ୍ୟ ସେସ୍ ଯଦି କିଛି ଥାଏ	ମୋଟ	5) କ୍ରମବର୍ଦ୍ଧନଶୀଳ ଖଜଣାର ବିବରଣୀ
6) ବିଶେଷ ଅନୁସଙ୍ଗ ଯଦି କିଛି ଥାଏ						
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True copy attested

Sum
20/5/22
TAKSELDAR
MANJALCHAI

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ଅଭିଯାନର କ୍ରମିକ ନଂ : 333		ସୂଚୀ : ବଜ୍ରପାଳ			କ୍ଷେତ୍ର : କେନ୍ଦ୍ରାପଡ଼ା
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			12		
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703/1064	ପଡ଼ିତ		0	3800	
430/1062	ପଡ଼ିତ		0	2400	
333/1061	ପଡ଼ିତ		1	6400	De-reservation case no. 10/02, ହୁ. ପୂ. ପୂ. ନଂ 333 ଏ, 23.300 ହୁ ଏ 1.640 430 ଏ, 1.76 ହୁ ଏ ଏ 0.24 693 ଏ, 2.58 ହୁ ଏ 0.56 703 ଏ, 1.78 ହୁ ଏ 0.38 କୁ ଖାରଜ, କରା ଉକ୍ତ ଖାତାରେ ପଡ଼ିତ, କିସମ ରେ ଦରଜ କରାଗଲା।
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746	ନୟନଯୋଗା		0	0600	
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 TALENT
 MANUFACTURE

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*SKM
20/5/25*

STATE OF ODISHA
REVENUE DEPARTMENT