

BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

IN THE MATTER OF:

Original Application No. 199/2024/EZ

JAI GOPAL RAI

...Applicant

-Versus-

STATE OF JHARKHAND & ORS.

...Respondents

INDEX

Sl. No.	Particulars	Page No.
1.	Counter Affidavit filed by District Magistrate, Hazaribagh, Jharkhand.	1 - 4
2.	Verification	5
3.	ANNEXURE - A	6 - 18

**AISHWARYA RAJYASHREE**  
Advocate  
Bar Association Room No. 5,  
High Court, Calcutta  
Chamber: 8/1, K.S. Roy Road,  
Kolkata: 700001.  
(M)9874995669  
Email: [advaish.hc@gmail.com](mailto:advaish.hc@gmail.com)





BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA

**MR. MILAN**  
NOTARY  
Hazaribagh

IN THE MATTER OF:

Original Application No. 199/2024/EZ

JAI GOPAL RAI

...Applicant

-Versus-

STATE OF JHARKHAND & ORS.

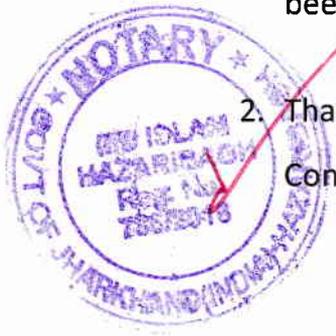
...Respondents

COUNTER AFFIDAVIT FILED BY OF DISTRICT MAGISTRATE, HAZARIBAGH,  
JHARKHAND, (i.e. RESPONDENT NO. 4 HEREIN).

NANCY SAHAY <sup>daughter</sup>, son of PRAKASH SAHAY, aged about 35  
years, by Religion - HINDU, by Occupation - Service under Government of  
Jharkhand in the office of District Magistrate, Hazaribagh, Jharkhand, having its  
office at HAZARIBAGH, Jharkhand,  
do hereby solemnly affirm and state as follows:

1. That, I am the DEPUTY COMMISSIONER, HAZARIBAGH, Jharkhand, and that I am aware of the facts and records in the instant case and have gone through the allegations and contentions in the Original Application as such I am competent to make and affirm the instant Affidavit. Further, I have been duly authorized by the District Magistrate, Hazaribagh, Jharkhand.
2. That, I am a law-abiding Citizen of India and very much respect the Constitution and Judicial System of India.

8388-10/3/2024  
Dated: 10/3/2024  
Authorized as per (a) o. the Notary  
1952 & rule 11(3) (4) of  
Series Rule 1958



X

3. That in pursuance and in compliance to the order dated 01.10.2024 of the Hon'ble Tribunal in the instant Original Application this Counter Affidavit is being filed by District Magistrate, Hazaribagh, Jharkhand, Respondent No. 4 herein.
4. That this affidavit is being filed for bringing necessary facts and statements on record for just and proper adjudication of this case.
5. That in compliance to the said order dated 01.10.2024 passed by the Hon'ble Tribunal, the inspecting committee comprising of the following members visited and inspected the site on 12.12.2024:
  - i. Regional Officer, JSPCB,
  - ii. Additional Collector, Hazaribagh, Jharkhand,
6. That the said inspection committee members carried out the inspection of the site and on basis of the said site inspection, the committee came up to the following recommendation on 12.12.2024:

“

*The Remediation measures that can be followed are as under which :-*

- 1) Arrangements should be made to prevent the drains from falling into the pond.*
- 2) Water Hyacinth and green plants must be removed from the pond.*
- 3) Garbage dumped on sides of the pond should be cleaned and Municipal corporation shall place more dustbins around the pond and shall ensure regular collection of waste from these bins.*



X

4) Fencing could be done on remaining sides to prevent dumping of waste in the pond and also to restrict the movement of stray animals towards the pond.

5)"As per the interim order passed by the Hon'ble Supreme Court of India in Civil Appeal No(s). 1904/2020 dated 01/10/2024, the Hon'ble Court emphasized that..."

"We must record here with a great deal the paramount duty of the State not of emphasis that it is only to protect the ponds/lakes/water bodies in the State but also to ensure that ponds/lakes/water bodies, which have been illegally filled in, are restored. It is the Constitutional duty of the State to do so.

6) The Chapter-15 of Jharkhand Municipal Act 2011 read as under:-

125. Power to acquire and hold property- The municipality shall, for the purposes of this Act, have power to acquire and hold by gift, purchase or otherwise, movable and immovable properties or any interest therein, whether within or outside the limits of the municipal area.

126. Vesting of property-Notwithstanding anything contained in any other law for the time being in force, the movable and the immovable properties and all interest whatsoever nature or kind therein of the following categories within the limits of a municipal area, shall vest in the municipality-

Public tanks, streams reservoirs, and wells;

7) It is also necessary to mention here that, in light of the application submitted by the applicant Shahnawaz Jamil for the mutation of the aforementioned land (i.e., Khata No. 62, Plot No. 122, Area 14.62 acres), the Circle Officer, Sadar Hazaribagh had rejected the mutation case No.-2898/2024-25 as it has been found that the land in question is being used for public purposes. A substantial portion of the land contains an Ahara (a traditional water reservoir) which is utilized by the general public.



✕

“

A photocopy of the said Inspection Report dated 12.12.2024 is annexed herewith and marked as Annexure - A.

7. That, this Counter Affidavit is filed bonafide and in the interest of justice. It is therefore prayed that Your Lordships, may kindly be pleased to accept the instant Counter Affidavit.
8. That the answering respondent seeks leave to file any further affidavits, if required, as per direction of the Hon'ble Tribunal.
9. I state that the statements contained in paragraphs Nos. 1 to 4 are true to my knowledge, the statements contained in paragraph Nos. 5 to 6 are true to my information derived from the official records of the case, which I verily believe to be true and the rest is/are my respectful submissions before this Hon'ble Tribunal.



X

VERIFICATION

I, NANCY SAHAY <sup>daughter</sup>, son of PRAKASH SAHAY, aged about \_\_\_\_\_ years, by Religion - HINDU, by Occupation - Service under Government of Jharkhand in the office of District Magistrate, Hazaribagh, Jharkhand, having its office at HAZARIBAGH, Jharkhand.

Date: 8/3/25

Place: HAZARIBAGH

[Signature]  
8/3/25

Deponent

Identified by me:

[Signature]  
Advocate (Adv)  
10/3/25



Solemnly affirmed before me Sri. [Signature]  
Who has been identified by [Signature]  
Advocate  
who is personally known to me

10/3/25  
NOTARY



# Affidavit



**OTD. PBLAS**  
**NOTARY**  
Hazaribagh, Jharkhand



83 88 - 10/8/2018

**Dated**.....  
Authorised as 8(1) (a) of the Notary  
1952 & rule 11(3) (4) of  
the Notary Rules 1958



*Handwritten signature*  
Joint Secretary  
Bar Association, Hazaribagh

*Handwritten signature*

Signature of Executive Member

## Annexure - A

In compliance with the order of N.G.T in O.A No. 199/2024/EZ Dated 01.10.2024, the Deputy Commissioner of District Hazaribagh, had constituted a committee vide letter number 3268/Vidhi, dated 06.11.2024. The order passed by the Hon'ble Court on 01.10.2024 read as under -:

Paragraph 15:-Considering the allegations made, we deem it appropriate to constitute a Committee comprising of the following members:-

- i) Senior Scientist, Jharkhand State Pollution Control Board;
- ii) District Magistrate or his representative of Senior rank not below the rank of Additional District Magistrate (ADM).

Paragraph 17:-The Committee shall visit the site in question and thereafter submit a Fact Finding Report with regard to the allegations made in the Original Application.

In compliance with the aforementioned order; the inspection team had conducted an on-site inspection of the concerned location on 12.12.2024 and documentary evidence was adduced from the Circle Officer, Sadar Hazaribagh, and the Municipal Commissioner, Municipal Corporation Hazaribagh.

### **Following observations were made during the inspection:-**

- 1) Residential buildings has been constructed on all the four sides of the pond. The Municipal Corporation/Nagar Nigam has made arrangements to facilitate discharge of drain water from the residential buildings located on the North side and East side into the Okani pond. Drain water from nearby localities of Hazaribagh town also falls in the pond from eastern side of the pond. Photographs I & II.
- 2) Hazaribagh Municipal Corporation has placed dustbin towards the south side of the pond but still garbage was found scattered on all sides of the pond.
- 3) Fencing around the pond was found on the western side which was damaged at some places. Towards the southern side of the pond, brick wall has been constructed of approx. 1-1.5 ft height. Plantation has been

- carried out all along the pond by the local residents. At some places plants were found inside the gabion. Photographs III.
- 4) For the beautification of the pond, Zila Parishad-Hazaribagh had dug up the pond soil and dumped on the western side of the pond in a plan to create a paver block pathway (for pedestrians) on all side Photographs IV. However due to stay order of the Hon'ble High Court of Jharkhand in W.P.(C) No. 7143/2023 the construction and beautification of the Pond remains incomplete. About 15-20m length pathway has been constructed. Photographs V. At present this filled up land towards the west side of the pond is used by locals to commute.
  - 5) Pond was found filled with hyacinth and green plants and only a small portion of open water could be seen. Photographs VI.

**The Remediation measures that can be followed are as under which :-**

- 1) Arrangements should be made to prevent the drains from falling into the pond.
- 2) Water Hyacinth and green plants must be removed from the pond.
- 3) Garbage dumped on sides of the pond should be cleaned and Municipal corporation shall place more dustbins around the pond and shall ensure regular collection of waste from these bins.
- 4) Fencing could be done on remaining sides to prevent dumping of waste in the pond and also to restrict the movement of stray animals towards the pond.
- 5)"As per the interim order passed by the Hon'ble Supreme Court of India in Civil Appeal No(s). 1904/2020 dated 01/10/2024, the Hon'ble Court emphasized that..."

*"We must record here with a great deal the paramount duty of the State not of emphasis that it is only to protect the ponds/lakes/water bodies in the State but also to ensure that ponds/lakes/water bodies, which have been illegally filled in, are restored. It is the Constitutional duty of the State to do so.*

**6) The Chapter-15 of Jharkhand Municipal Act 2011 read as under:-**

125. Power to acquire and hold property- The municipality shall, for the purposes of this Act, have power to acquire and hold by gift, purchase or

otherwise, movable and immovable properties or any interest therein, whether within or outside the limits of the municipal area.

126. Vesting of property-Notwithstanding anything contained in any other law for the time being in force, the movable and the immovable properties and all interest whatsoever nature or kind therein of the following categories within the limits of a municipal area, shall vest in the municipality-

Public tanks, streams reservoirs, and wells;

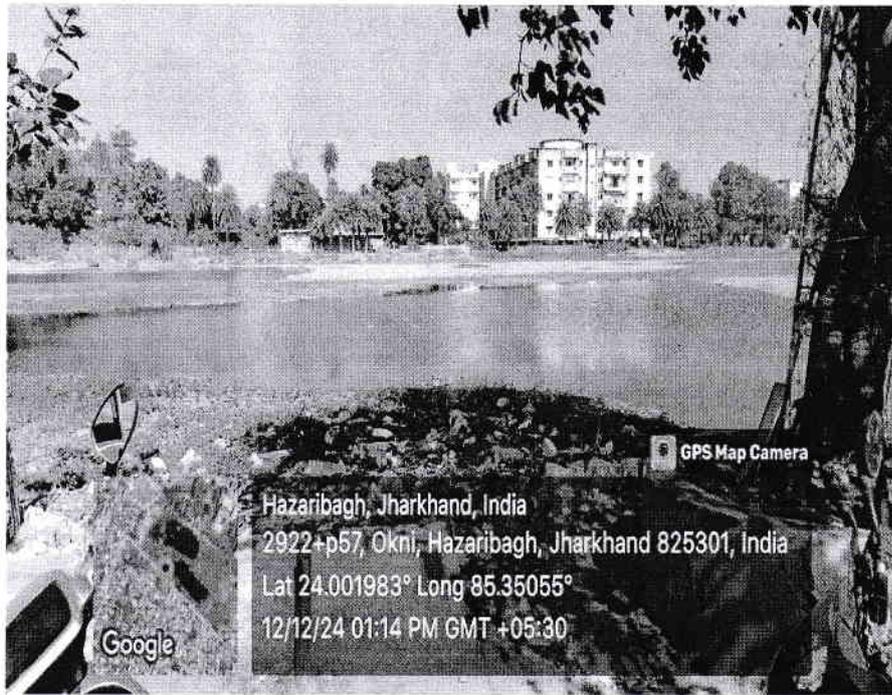
7) It is also necessary to mention here that, in light of the application submitted by the applicant Shahnawaz Jamil for the mutation of the aforementioned land (i.e., Khata No. 62, Plot No. 122, Area 14.62 acres), the Circle Officer, Sadar Hazaribagh had rejected the mutation case No.- 2898/2024-25 as it has been found that the land in question is being used for public purposes. A substantial portion of the land contains an Ahara (a traditional water reservoir) which is utilized by the general public.

JH 884  
12.12.2024  
Regional Officer,

Jharkhand State Pollution Control Board

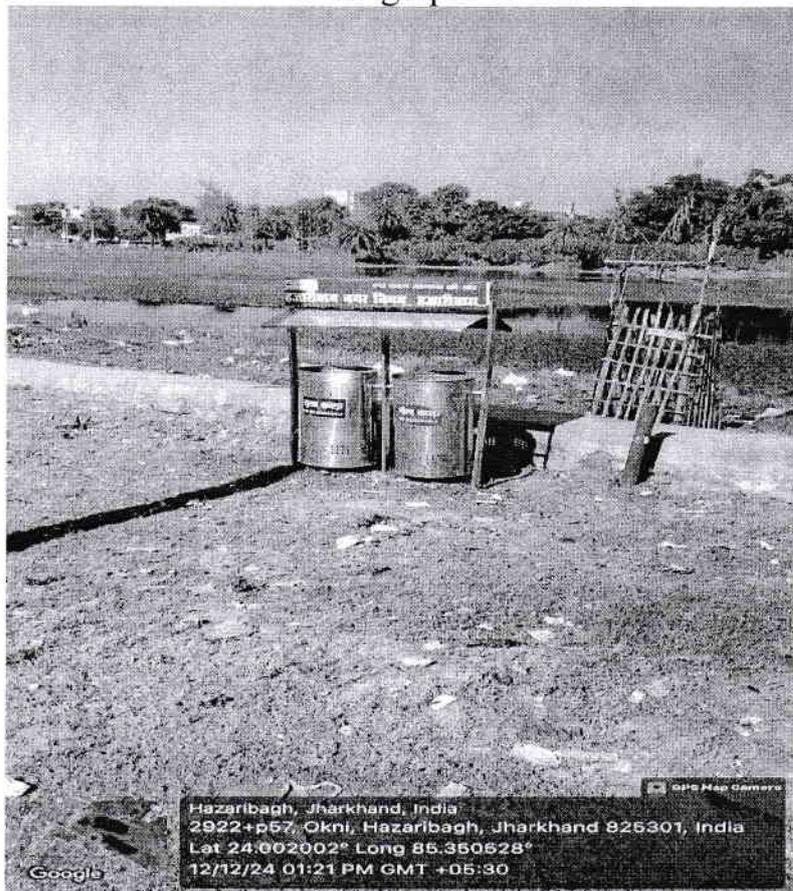
  
Additional Collector  
Hazaribag

Photographs I



Garbage around the pond

Photographs II



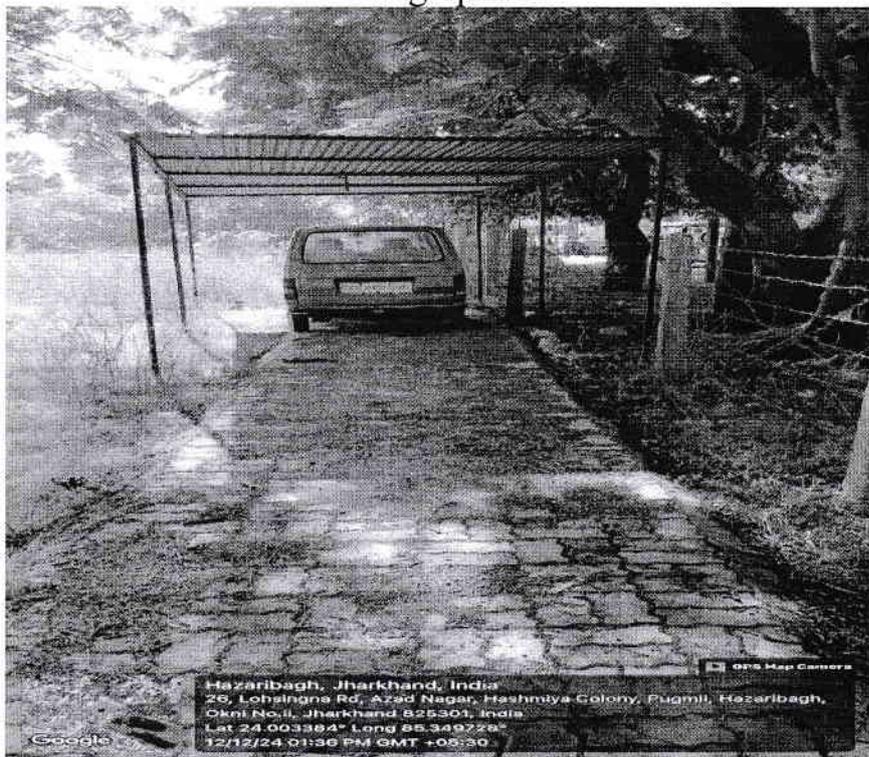
Dustbin placed by Municipality

Photographs III



Plantation in gabion

Photographs IV



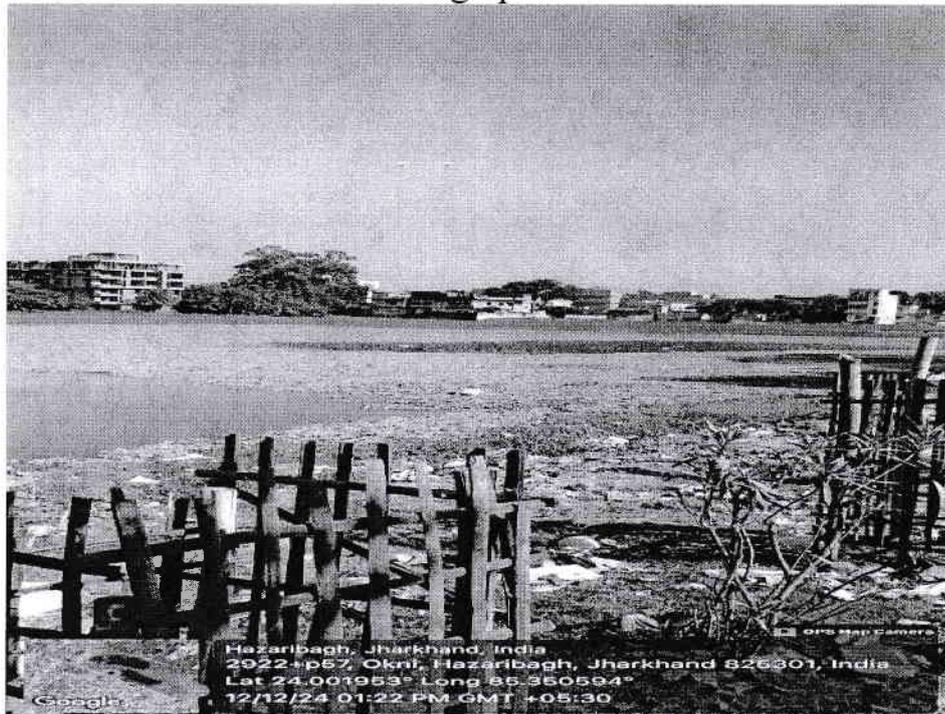
Pavor block pathway and fencing on the western side of pond

Photographs V



Soil dumped on the western side of pond by Zila Parishad

Photographs VI



Okani pond filled with green plants and hyacinth

ITEM NO.35

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).1904/2020

MIRZA ABID BEG

Appellant(s)

VERSUS

STATE OF U.P. &amp; ORS.

Respondent(s)

(IA No. 29875/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 29873/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 37268/2021 - EXEMPTION FROM FILING O.T. AND IA No. 29874/2020 - EXEMPTION FROM FILING O.T., IA NO.80427/2024 - FOR ADDITIONAL DOCUMENTS, IA NO.80428/2024 - EXEMPTION FROM FILING O.T. AND IA NO.149762/2024 - FOR ADDITIONAL DOCUMENTS)

Date : 16-07-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s) Mr. Ashutosh Dubey, AOR  
Mr. Abhishek Chauhan, Adv.  
Ms. Rajshri A. Dubey, Adv.  
Mr. H.B. Dubey, Adv.  
Mr. Amit P. Shahi, Adv.  
Mr. Amit Kumar, Adv.  
Mr. Gaurav Yadav, Adv.

For Respondent(s) Dr. Vijendra Singh, AOR  
Mr. Aarohi Bhalla, Adv.  
Mr. Abhinav Rathi, Adv.  
Ms. Divyakshi Singh, Adv.  
Ms. Apurva Singh, Adv.

Mr. Vinay Garg, AOR  
Ms. Neetu Rawat, Adv.  
Mr. Upendra Mishra, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Signature Not Verified  
Digitally signed by  
ASHISH KUMAR  
Date: 2024.07.16  
16:24:51  
Reason:

The issue raised by the appellant before the National Green Tribunal (for short, "the NGT") was of immense importance. Only by way of an illustration, the learned counsel appearing for the

appellant pointed out certain instances of ponds/lakes/water bodies being filled in by garbage and other material. The learned counsel appearing for the appellant also pointed out that after filling in the ponds/lakes/water bodies, illegal constructions have been made. The NGT called for a report. A copy of the report was not furnished to the appellant who was the applicant before the NGT. The impugned order, which is very short, indicates that at least in the case of one pond, such allegation was found to be correct and, therefore, the NGT has recorded that a portion of the garbage dumped in the pond has been removed. In our view, NGT ought to have kept the application pending.

2. We direct the Secretary of the Ministry of Environment of the State of Uttar Pradesh to constitute a Committee of senior officials including the officials of the Revenue Department, Environment Department and the State Pollution Control Board. The said Committee shall be constituted within a period of three weeks from today. To begin with, the Committee will deal with the grievances made by the appellant about the ponds/lakes/water bodies in Tehsil Nagina, District Bijnor, Uttar Pradesh. The State Government shall ensure that the inspection of the entire revenue record relating to the properties which are mentioned in paragraph 4 of the application made by the appellant is provided to the Committee. After examining the old revenue records, the Committee will ascertain whether there were any entries regarding existence of the ponds/lakes/water bodies. The Committee constituted by the Secretary of the Ministry of Environment shall make a visit to the properties on which ponds/lakes/water bodies were in existence. In addition, the Committee will visit the lands described in paragraph 4 of the application filed before the NGT. The Committee will make in-depth study on the allegation of disappearance of ponds/lakes/water bodies in Tehsil Nagina. The Committee will suggest measures for the restoration thereof. Subsequently, the scope of the work of the Committee can be expanded to cover many districts.

3. We must record here with a great deal of emphasis that it is the paramount duty of the State not only to protect the ponds/lakes/water bodies in the State but also to ensure that ponds/lakes/water bodies, which have been illegally filled in, are restored. It is the Constitutional duty of the State to do so. The Committee appointed by the Secretary, Ministry of Environment, will make a note of this obligation on the part of the State.

4. Copies of the reports of the Committee shall be submitted to this Court through the State of Uttar Pradesh. The first report shall be submitted by the Committee to this Court on or before 15<sup>th</sup> November, 2024.

5. An advance notice shall be given by the Committee to the appellant of the time and date fixed for inspection to enable the appellant to remain present at the concerned site. We make it clear that we are granting permission only to the appellant to remain present at the time of inspection and the appellant will ensure that no other person accompanies him at the time of inspection.

6. For consideration of the report, list the Appeal on 22<sup>nd</sup> November, 2024 under the caption of 'Directions'.

(ASHISH KONDLE)  
COURT MASTER (SH)

(AVGV RAMU)  
COURT MASTER (NSH)

**Chapter - 15****Municipal Property**

**125. Power to acquire and hold property** - The municipality shall, for the purposes of this Act, have power to acquire and hold by gift, purchase or otherwise, movable and immovable properties or any interest therein, whether within or outside the limits of the municipal area.

**126. Vesting of property** - Notwithstanding anything contained in any other law for the time being in force, the movable and the immovable properties and all interest whatsoever nature or kind therein of the following categories within the limits of a municipal area, shall vest in the municipality-

- a. Public lands not belonging to any Government department , statutory body,
- b. Public tanks, streams, reservoirs, and wells;
- c. Public markets and slaughterhouses;
- d. Public sewers and drains, channels, tunnels, culverts and watercourses in, alongside, or under, any street;
- e. Public streets and pavements, and stones and other materials thereon, and also trees on such public streets or pavements not belonging to any private individual,
- f. Public parks and gardens, including squares and public open spaces,
- g. Public *ghats* on rivers or streams or tanks,
- h. Public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto,
- i. Public places for disposal of the dead, excluding those governed by any specific law in this behalf,
- j. Solid wastes collected on a public street or public place, including dead animals and birds, and
- k. Stray animals not belonging to any private person.

**127. Acquisition of property by Municipality by agreement, exchange, lease, grant etc. -**

(1) The municipality may, on such terms and conditions as may be approved by it, acquire by agreement -

- (a) any immovable property, and
- (b) any easement affecting immovable property.



## Mutation Details(म्युटेशन आवेदन की स्थिति)

Case No./YearSession : 2898/2024 - 2025

Case Status : Rejected:

Action Date	Action Remarks	Role(User Name)
26-Jul-2024	Receipt of Application	Mutation Through Operator
29-Jul-2024	First Hearing:	CO (Kumar Mayank Bhushan)
23-Aug-2024	Forwarded to DA	CO (Kumar Mayank Bhushan)
23-Aug-2024	Verified by DA	
23-Aug-2024	Notice to all ,Notice to Buyer ,Notice to Seller	
23-Aug-2024	Forwarded to Karamchari	
27-Aug-2024	Ojection Remarks: भूमि का भौतिक सत्यापन हेतु 5-7 कार्य दिवसों की अवधि में अंचल कार्यालय में मूल दस्तावेज उपलब्ध कराए	KA (SACHIN KUMAR)
27-Aug-2024	CI Remarks :  रा उप नि के प्रतिवेदनानुसार आवेदक द्वारा बांछित दस्तावेज उपलब्ध नहीं कराया गया है बांछित दस्तावेज उपलब्ध कराये जाने पर रा उप नि को पुनः निर्देश के साथ वापस किया जा सकता है कि स्थलीय जाँच कर मिलान करते हुए ससमय स्पस्ट प्रतिवेदन दें	CI(ARUN PRASAD )
30-Aug-2024	CO Remarks :राजस्व उप निरीक्षक एवं अंचल निरीक्षक सदर हजारीबाग को निदेश दिया जाता है कि पक्षकारों को सूचित करते हुए भूमि संबंधी संपूर्ण राजस्व दस्तावेजों एवं दखल कब्जा की पुनःजाँच कर नियमानुसार उक्त नामान्तरण बाद के निष्पादन हेतु अग्रेतर करवाई करें	CO(Kumar Mayank Bhushan )



03- Dec- 2024	Ojection Remarks: नामांतरण हेतु प्राप्त आवेदन में आवेदित भूमि का जांच किया है जांचोपरान्त ज्ञात हुआ की यह भूमि सावजनिक उपयोग में है, जिसमे वृहद् भूभाग पर अहरा (जलाशय) स्थित है जिसका सार्वजनिक उपयोग आमजनो द्वारा किया जा रहा है। आवेदित भूमि के अंश भाग पर वर्तमान समय में लोहसिंघना थाना अवस्थित है। आवेदक का आवेदित भूमि पर दखल कब्जा नहीं है, साथ ही आवेदित भूमि के सम्बन्ध में NGT/अन्य स्तर पर वर्तमान समय में मामला विचाराधीन है। आवेदित भूमि के नामांतरण के विरुद्ध सत्यम कुमार एवं अन्य आमजनों के द्वारा आपत्ति प्राप्त हुआ है कि "आवेदित भूमि सार्वजनिक तालाब है जिसका उपयोग सामाजिक रूप में किया जाता है तथा पुरे समाज की सार्वजनिक सम्पति है"। आवेदित भूमि से सम्बंधित नामांतरण पूर्व में भी अंचल स्तर से अस्वीकृत किया जा चुका है। अतः उक्त के आलोक में नामांतरण की कार्रवाई करना नियमसंगत प्रतीत नहीं होता है। अतः नामांतरण वाद को अस्वीकृत किया जा सकता है।	KA (SACHIN KUMAR)
04- Dec- 2024	CI Remarks :रा उ नि के प्रतिवेदन के अनुसार आवेदक का आवेदन खारिज किया जा सकता है	CI (ARUN PRASAD )
04- Dec- 2024	CO Remarks :राजस्व उप निरीक्षक एवं अंचल निरीक्षक के जाँच प्रतिवेदन के आलोक मे दाखिल खारिज अस्वीकृत किया जाता है। यह आदेश पूर्णतः अपील्य है। यदि कोई पक्ष इस आदेश से असन्तुष्ट हो तो वे इस आदेश के विरुद्ध सक्षम न्यायालय मे अपील दायर कर सकते हैं	CO (Kumar Mayank Bhushan )

## Correction slip Generation :

दस्तावेजों के ब्यौरे	दस्तावेज प्रकार	दस्तावेज संख्या	दस्तावेज तिथि	राशि
	Registration Deed	6379	22/03/1972	40000
Document uploaded by Applicant	File Name	File Type	Download File	
	AAAAAAAAAAAAAAAAAAAA_0001.pdf	pdf	Download	
Document From NGDRS	NGDRS FILE Download			
Applicant Details	Applicant Name	Guardian Name	Address	
	SHAHNAWAJ JAMIL	MOHAMMAD SULEMAN	BADAM BAZAR HAZARIBAGH	
Vendee Details	Vendee Name	Guardian Name	Address	
	SHAHNAWAJ JAMIL	MOHAMMAD SULEMAN	BADAM BAZAR HARIBAGH	
	ARIF JAMIL	MOHAMMAD SULEMAN	BADAM BAZAR HARIBAGH	
	SHADAN JAMIL	MOHAMMAD SULEMAN	BADAM BAZAR HARIBAGH	
Vendor Details	Vendor Name	Guardian Name	Address	
	RAAJA BAHADUR INDRA JITENDRA BARAIN SINGH	LATE RAJA BAHADUR KAMAKHYA NARAIN SINGH	BARHI HAZARIBAGH	
	MAHARANI LALITA RAJYA LAXMI	LATE RAJA BAHADUR KAMAKHYA NARAIN SINGH	BARHI HAZARIBAGH	
	MAHARAJMATA SHASHANK MANJARI DEVI	LATE MAHARAJ KUMAR LAKSHMI NARAIN SINGH	BARHI HAZARIBAGH	

Plot Details	District	Circle	Halka	Mauja	Khata No	Plot No	Area
	हजारीबाग	सदर	हलका-01	ओकनी-1	62	122	0 एकड़ 1462 डिसमील 0 हेक्टर
	हजारीबाग	सदर	हलका-01	ओकनी-1	62	62	0 एकड़ 120 डिसमील 0 हेक्टर