

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

**O.A NO.- 42 OF 2024/EZ**

**IN THE MATTER OF:**

BIMAL HEMBRAM AND  
ANOTHER.....APPLICANTS

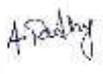
VERSUS  
STATE OF ODISHA AND OTHERS ... RESPONDENTS

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PLACE: Bhubaneswar

DATE: 01/07/2025

   
**SANKAR PRASAD PANI**  
ASHUTOSH PADHY  
ADVOCATE

Plot 2132/4814, NageswarTangi, Bhubaneswar 751002 Cell-  
9437279278,Email:[sankarprasadpani@gmail.com](mailto:sankarprasadpani@gmail.com)

**BEFORE HONBLE NATIONAL GREEN TRIBUNAL**

**EASTERN ZONE BENCH, KOLKATA.**

(Under Section 18(1) read with Section 14(1), 15 and 20 of the National Green Tribunal Act 2010)

**Original Application No-42 of 2024**

**IN THE MATTER OF:-**

BIMAL HEMBRAM AND ANOTHER

APPLICANTS

VERSUS

STATE OF ODSHA AND OTHERS

RESPONDENTS

**REJOINDER ON BEHALF OF APPLICANT**

I, Bimal Hembram, S/o Nanda Hembram, Aged about 34 years Resident of Jhatiapada, Byree, Jajpur, Odisha . 751082, do hereby solemnly affirm, and declare as under, That I am one of the Applicants in the abovementioned application and authorized by other co-applicants to swear this affidavit,

1. That the affidavit dated 28/08/2024 filed by Chief Secretary Govt. of Odisha in paragraph No.8 it is admitted the movement of elephants in 2 K.M radius of the project area and any kind of construction and pollution activities will have severe impact on the wildlife and also may give rise to the human elephant conflict in the locality.
2. That the affidavit dated 28/08/2024 filed by Chief Secretary Govt. of Odisha in paragraph No. 9 it is admitted that the temporary Hal plot

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No. 3854 is relates to the Sabik Plot No 2024 and recorded under the Kissam of “Padia” however in the Aminas investigation report (page 142 of the paper book) it is categorically mentioned that “***Sabik Khata No.610 is Anabadi Khata During field enquiry, it is found that the area of the concerned plot is not matched with map and submitted trace of area of Ac.220.97 dec. The Kissam of the said plot is 'Pathuria Jungle' and there is nobody in possession of the said plot. Hence, Hal Plot No.3854, area of Ac:220.97 recorded under Abadha Jogya Anabadi Khata***” it is pertinent to mention here that the kissam of the land was changed without prior approval from the competent authority for which the change of land kissam is completely illegal.

3. That the affidavit dated 28/08/2024 filed by Chief Secretary Govt. of Odisha in paragraph No. 17 it is stated that “it is humbly submitted that the copy of Amin report vide Annexure-7 to the Original Application revealed that the Amin reported to record the temporary plot no.3854 of area Ac.220.97 dec in Abadajogya Anabadi khata of the village-Byree with Kisam-Pathuria Jungle. Thereafter, the report of the Amin amended and the kism of the temporary plot bearing no.3854 recorded as "Patita" by the concerned authority.” It is most humbly submitted that as per the Revenue Department, State Government of Odisha letter dated 24/10/2011 the kism of the kland can not be converted, hence the change of kissam of hal plot No.

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3854 correspond to Sabik plot No.2024 is illegal.

4. That in the affidavit of Chief Secretary Govt. of Odisha in paragraph 23 it is admitted that there exist wild Elephant and other wild animals namely Monkey, Rabbit, Mongoose, Common Myna, Crow, Cobra, Python, Rat snake, Monitor Lizard in nearby surrounding area of the project.
5. That in the affidavit dated 13/02/2025 filed by MoEFCC in paragraph No. 16 it is clear that the user agency has erected 15 No. of 33KV electric poles under Byree PF without any prior approval from the competent authority. That the Applicant on dated 03/03/2025 made a representation to all the concerned authorities regarding the uprooting of unauthorized 33kv power transmission line erected by the Private Respondent. Copy of the representation dated 03/03/2025 is annexed here unto as **ANNEXURE-1**.
6. It is further submitted that the MoEFCC in its affidavit dated 13/02/2025 in Paragraph No. 16 mentioned that the Regional Office of the MoEFCC vide its letter dated 03.02.2025(at page 294 of the paper book) requested the State Govt. to take necessary steps under the relevant Act and submit its report to the MoEFCC. However as on date no such action has been taken by the State government in order to protect the forest Kisam land.

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7. It is further submitted that the User Agency vide proposal No. FP/OR/RAIL/438606/2023 on 08.02.2024 vide PARIVESH 2.0 portal made a proposal for Construction of rail corridor in village Kadei under Tangi- Choudwar Tahasil Cuttack and after scrutinization of the proposal the MoEFCC on dated 21/01/2025 has granted the Stage –I forest clearance for the above proposal.
8. It is not out of place to mention here that the EC for the Greenfield Project for installation of Cement Grinding Unit of capacity 3.0 MTPA (1.5 MTPA in Phase-1 & 1.5 MTPA in Phase-2) at Village – Byree, Tahasil Darpan, District – Jajpur, Odisha by M/s. My Home Industries Pvt. Ltd. was granted on dated 23/06/2023, however the user agency has started construction without having valid EC.
9. That the Private Respondent No. 9 admitted in their affidavit dated 27/08/2024 in Paragraph No.7 iii that they have started construction from 26/09/2022. That the Respondent No. 9 is claiming that they are exempted for making the fencing/ boundary wall as per the OM dated 29/03/2022, however the Private Respondent is not falling under the exempted category as the OM only allows to secure the land but the user Agency has done the earth filling using JCB machines, Road, Morrum mining, concrete piling as evident from the photographs attached in the OA from page 50-54. .

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10. That the Final ROR of the land in question was finally published on 22/04/1998, pursuant to the Amin report prepared in 1997 wherein it is mentioned *“Sabik Khata No.610 is Anabadi Khata During field enquiry, it is found that the area of the concerned plot is not matched with map and submitted trace of area of Ac.220.97 dec. The Kissam of the said plot is 'Pathuria Jungle' and there is nobody in possession of the said plot. Hence, Hal Plot No.3854, area of Ac:220.97 recorded under Abadha Jogya Anabadi Khata”* .

11. Since the final ROR was published on 22/04/1998 and before that the Amin report says that the land in question is Pathuria Jungle and the Amin Report is also annexed in Page No.133 in the affidavit dated 28/08/2024 filed by State Government, however the date of Amin report has not been mentioned in the document filed by the State Government. The State Government may be directed to file the details of date of preparation of the document. As per the signature of the document it is believed that the Amin report was prepared in the year 1997 as because Amin reports are usually prepared prior to settlement process and based on that report the specific remarks which use to be in the record has been deleted as mentioned in the Amin report itself.

12. Needless to say that it is the Amin report which has been filed by the

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applicant as well as the State Govt. corroborate the claim of the applicant that the land in question is Pathuria Jungle and the same has been deleted only in the year 1998 which is much after than the commencement of Forest Conservation Act 1980 and the same is not permissible in law.

13.It is further submitted that the villager of Bayree and other surrounding villagers has unanimously has opposed the allotment of land for the industrial purpose as because their common land is sharply declining and their farm land are also declining as because of the industrialization. Hence the allegation of the Private Respondent that the applicants are filing this petition for personal gain and for other reasons are baseless and unsustainable.

14.It is further submitted that when a project involves both forest and non forest land no construction is allowed even on non forest land. The applicant is relying on OM dated 24/06/2013.

15.That the burrowing of morrum from forest land and non-forest land for construction of road work is being done indiscriminately using Earth movers without mining plan, environment management plan, and reclamation plan, environment clearance and forest clearance is prohibited and the ongoing extraction of morrum and soil is in violation of Forest Conservation Act 1980 and Environment Impact

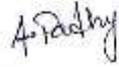
# 8

Assessment Notification 2006 and Office Memorandum issued by MoEFCC dated 24/06/2013. Copy of MoEFCC order dated 24/06/2013 is annexed here unto as **ANNEXURE-2**.

16.It is further submitted that the Applicant along with the villagers

DATE-1<sup>ST</sup> JULY 2025

APPLICANT THROUGH

A handwritten signature in cursive script that reads "Spami". The signature is written in black ink and is underlined with a single horizontal stroke.A handwritten signature in cursive script that reads "A. P. Singh". The signature is written in black ink.

ADVOCATE

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTER ZONE BENCH, KOLAKATA

ORIGINAL APPLICATION NO-42----- OF 2024

IN THE MATTER OF:

BIMAL HEMBRAM & OTHERS

APPLICANTS

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

**AFFIDAVIT**

01 JUL 2025

I Bimal Hembram, S/o Nanda Hembram, Aged about 34 years Resident of Jhatiapada, Byree, Jajpur, Odisha . 754082, do hereby solemnly affirm, and declare as under:

1. That I am one of the Applicants in the abovementioned application and authorized by other co-applicants to swear 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 Affidavit and the same is true and correct and is drafted on my instruction.

*Bimal Hembram*  
DEPONENT

**VERIFICATION**

Verified on this the \_\_\_\_\_ day of 01 JUL 2025 2024 at Bhubaneswar 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.



Identified By *[Signature]*  
Advocate

The above named deponent(s) being duly identified by *[Signature]* Advocate, Bhubaneswar appears before me on oath the contents of the affidavit are true to the best of his/her knowledge and belief.  
Notary, Bhubaneswar

*Bimal Hembram*  
01 JUL 2025  
DEPONENT





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ANNEXURE-1

Sankar Pani &lt;sankarprasadpani@gmail.com&gt;

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**Uprooting of Unauthorised 33kv power transmission line erected by My Home Cement over plot no. 4369 khata-1298, kissam-Gramya Jungle under Byree mouza of Darpan Tahsil, Jajpur District**

1 message

**biswajit mohanty** <biswajitmohanty.1976@gmail.com>

Mon, Mar 3, 2025 at 10:31 AM

To: roez.bbsr-mef@nic.in, roez.bsr-mef@nic.in, "odishawildlife@gmail.com" &lt;odishawildlife@gmail.com&gt;, "dfo.cuttack@odisha.gov.in" &lt;dfo.cuttack@odisha.gov.in&gt;

Cc: Sankar Pani &lt;sankarprasadpani@gmail.com&gt;, sudhansu\_gantayet@rediffmail.com, sudhansu gantayet &lt;sudhansugantayet6@gmail.com&gt;

To,  
The Divisional Forest Officer,  
Cuttack Forest Division,  
Nuapada, Cuttack.

Dear Sir,

With reference to the cited Subject above, we the villagers of Byree are drawing your attention towards unauthorised occupy of forest land by My Home Cement constructing 33 kv poles power line for their project operation. Time and again we the law awareness villagers are bring to your notice about various irregularities being adopted by the company in different time and different manner, but no action has been taken by your office yet.

It is very pertinent to mention here that a few days back a wild monkey died of electrocution from the same 33 kv line contact and the rest of the bunch of monkeys escaped unhurt luckily. It is our measure concern that elephants are coming to the water hole (Hadsahi Pokhari) every evening and chances of electrocution to those wild elephants can not be ruled out unless those poles are removed immediately.

We are requesting take necessary action against the erring company and strong steps needs to be taken for re-aligning of 33kv line along with those electric poles without any delay. Failing which, we the villagers of Byree, Amiyajhari & other tribal hamlets will be congregated and gherao the Dalijoda Range Office and will call a press meet to address the issue.

Thanking you and Regards,  
Biswajit Mohanty  
Village Byree

F. No. 2-1/2003-FC  
Government of India  
Ministry of Environment & Forests  
(FC Division)

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi - 110003  
Dated: 21<sup>st</sup> March, 2011.

To

The Chief Secretary / Administrator,  
All States and Union Territories.

Sub: Revision of para 4.4 of the guidelines on Forest (Conservation) Act, 1980 regarding projects involving Forest as well as Non-forest Lands.

Ref: Ministry's letter of even number dated 6<sup>th</sup> January, 2011 and withdrawal of the same vide dated 17<sup>th</sup> February, 2011.

Sir/Madam,

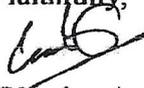
Consequent upon withdrawal of Ministry's letter dated 6<sup>th</sup> January, 2011 regarding revision for para 4.4 of the guidelines on Forest (Conservation) Act, 1980 pertaining to projects involving forests as well as non-forest lands, I am directed to reiterate that the status-quo on the guideline is being restored.

Therefore, the para 4.4 of the Guideline on Forest (Conservation) Act, 1980 shall finally be read as reproduced below -

4.4 Project involving Forest as well as Non-forest Lands

Some projects involve use of forest land as well as non-forest land. State Governments / project authorities sometimes start work on non-forest lands in anticipation of the approval of the Central Government for release of the forest lands required for the projects. Though the provisions of the Act may not have technically been violated by starting of work on non-forest lands, expenditure incurred on works on non-forest lands may prove to be infructuous if diversion of forest land involved is not approved. *It has, therefore, been decided that if a project involves forest as well as non-forest land, work should not be started on non-forest land till approval of the Central Government for release of forest land under the Act has been given.*

Yours faithfully,

  
(Umakant)

Assistant Inspector General of Forests

Copy to:-

1. The Secretary (Forests), All States / UTs
2. All PCCF/Nodal Officers (All States/UTs).
3. All Regional Offices.
4. All concerned officers of F.C. Division.
5. Monitoring Cell, FC Division, MoEF, New Delhi.
6. Guard file.

  
(Umakant)

Assistant Inspector General of Forests



Sankar Pani &lt;sankarprasadpani@gmail.com&gt;

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**Rejoinder affidavit on behalf of Applicant in OA 42/2024 EZ**

1 message

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**Sankar Pani** <sankarprasadpani@gmail.com>

Wed, Jul 2, 2025 at 10:26 AM

To: Aishwarya Dash <aishwaryadash010@gmail.com>, "Rajib Ray, Advocate" <rajib.ray.official23@gmail.com>, Dipanjan Ghosh <dpnjnghsh0@gmail.com>, apurba ghosh <apu7law@gmail.com>, Dn Ray <raydnr@gmail.com>, Pronoy Mohanty <pronoymohanty@gmail.com>, "Lalit K. Maharana" <lalitikumarana@gmail.com>

Dear Sir/Madam, please find the attachment.

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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

**REJOINDER BIMAL.pdf**

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