

BEFORE THE NATIONAL GREEN TRIBUNAL
KOLKATA BENCH EASTERN ZONE, KOLKATA

(Original application NO. 225 of 2024)

In the matter of

Alayaa Samantray . . . Applicant

-Versus-

State of Odisha and ors . . Respondents

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CUTTACK

DATE:18.8.2025


Addl. Standing Counsel.

Sri Prabhuprasanna Behera
Addl. Standing Counsel

BEFORE THE NATIONAL GREEN TRIBUNAL
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COUNTER AFFIDAVIT FILED ON BEHALF OF
THE RESPONDENT NO.7

I, Sri Umesh Chandra Sethi, aged about 53 years, S/o. Prahallad Sethi, at present working as Superintending Engineer, Kendrapara Irrigation Division, At/PO/Dist:Kendrapara, do hereby solemnly affirm and state as follows:-

1. That, I have duly authorized to file this affidavit on behalf of Opp. Party No.7 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:

- I. "Eviction of unauthorized structures and removal of construction materials and camp office from the Riverbed, Flood Plain and Nayanjori Kism land.

Umesh chandra Sethi



Umesh

3/18/2024
Surendra Prasad Dha,
Advocate
NOTARY, CUTTACK

- 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 dated 27.11. 2024.

4. That, the report suggests that the record of rights of the schedule land in question in the original application is under Abad AjogyaAnabadi,Khatano. 330 of Kisam Nadi i.e. river LUNA under Tahasil Marshaghai of Kendrapara District.

5. 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

Umesh Chandra Sethi




 Surendra Prasad Dha
 Advocate
 NOTARY, CUTTACK

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.

6. 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/7.

Umesh chandra Sethi



Surendra Prasad Dha
Advoc.
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7. That, it is humbly submitted that, the land, allegedly encroached and alleged construction has been made and/or materials have been stocked i.e, Plot No.705/861 of Khata No.330, Kissam Nadi, Mouza-Balapada, Area Ac.18.74 in Marshaghai Tahasil of Kendrapara District and over Plot No.333, Khata No.333, Kissam Nayangori, Mouza Badapada having area of Ac.21.6 is not recorded in the name of Irrigation Department, in so far as, the allegations are concerned, the Irrigation Department has got no role to control the same however, the concerned officer, have taken step to ensure that, the environmental issues are duly considered and because of such temporary cite camp as has been allegedly constructed on the land in question, the free flow of water is not affected causing serious environmental issues.

8. That it is humbly submitted for the appreciation of this Honourable tribunal that, even after the joint inspection was done, the answering respondents are quite vigilant about the illegal construction and illegal dumping of materials in the riverbed if found at any point of time. It is also submitted that the answering respondent are duty bound to take immediate action including penal action if any such activities are found in the river bed. The answering respondents are also taking due care to protect the environment and not to allow any such illegal construction in the riverbed

Umesh chandra Sahu

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Surentra Prasad Dha
Advocate
NOTARY, CUTTACK

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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.

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

10. 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 statements made in Paragraph No.9 is submissions before this Hon'ble Court for kind appreciation.

Identified by

A.S.O of A.G Office



Umesh chandra Sethi
DEPONENT. 18.08.2025

Superintending Engineer
Kendrapara Irrigation Division
Kendrapara

The above named Deponent

solemnly affirm on 18.08.2025

Being Identified

by personally known name

Surendra Prasad Dhai
Advocate
NOTARY, CUTTACK

Solemnly affirmed before me by Sri Srikanta Parija who is identified before me by Notary, Cuttack, A.S.O, Advocate General's Office whom I personally know.

This the 18/10 day of August, 2025

Cuttack

Date:18.8.2025

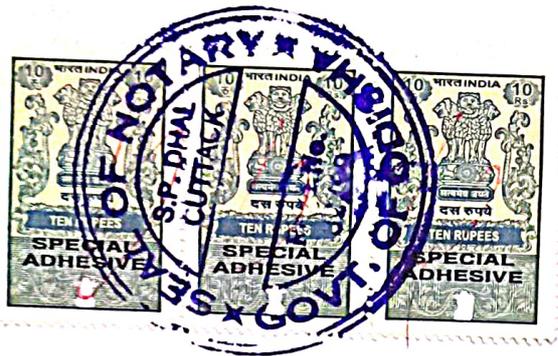
NOTARY PUBLIC, CUTTACK

Certified that Cartridge papers are not available.

Addl. Standing Counsel.

Sri Prabhuprasanna Behera
Addl. Standing Counsel

Umesh Chandra Sethi



Surendra Prasad Dhal 18/8/2025
Advocate
NOTARY, CUTTACK

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 attested


Superintending Engineer
Kendrapara Irrigation Division
Kendrapara

- 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.

Plakho
27/01/25
Assistant Engineer
Paikura Section-I
Paikura

P. Munda
27/01/2025
Asst. Executive Engineer
Paikura Irrigation Sub-Division
Paikura

SKM
28/11/25
Tabasildar, Marshaghai

bhm
27/01/2025
Superintending Engineer
Kendrapara Irrigation Division
Kendrapara

True copy attached
bhm

Superintending Engineer
Kendrapara Irrigation Division
Kendrapara