

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH CHENNAI.**

Appeal No.19 of 2020

Between:

B.Madhan Kumar Reddy,
S/o. Chandra Reddy,
R/o. Momidi Village,
ChillakurMandal,
SPS Nellore District.

... Appellant

-VS-

1. The Government of India,
Rep. by its Director, Ministry of Environment,
Forest and Climate Change,
1A Division , 3rd floor, Vayu Wing,
Indira Paryavaran Bhavan, Jorbagh Road,
Aliganj, New Delhi-110 003.
2. The Central Expert Appraisal Committee
for the Proposal involving Violation of EIA Notification, 2006
Rep. by its Member Secretary
Ministry Of Environment,
Forest and Climate Change,
Indira Paryavaran Bhavan, Jorbagh Road,
Aliganj, New Delhi-110 003.
3. The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Industries and Commerce Department,
Secretariat, Amaravati,
Guntur District, Andhra Pradesh.
4. The Director of Mine & Geology,
Sri Anjaneya Towers, D.No.7-104, B-Block,
5th & 6th Floors, Vijayawada,
Ibrahimpatnam, Andhra Pradesh-521 456.
5. The Deputy Director of Mines & Geology,
D.No. 11/28, Lakshmi Villa, Talapagiri Colony,
Buja Buja Nellore, SPSR Nellore-524 004.
6. The Assistant Director of Mines & Geology,
Door No. 26-4-11, Opp.LIC Scanning Center,
2nd Street, Vikram Nagar, Nellore-524 004.
7. M/s. Sri Kumaraswamy Silica Mines,
Rep. by its Managing Partner, Mr.Vemireddy Kumara Swamy,
Momidi Village, ChillakurMandal,
SPSR Nellore District,
Andhra Pradesh-524 412.

... Respondents

COUNTER AFFIDAVIT FILED BY 4TH RESPONDENT

I, V.G.Venkat Reddy, S/o. Subba Reddy, Hindu aged about 56 years, The Director of Mines and Geology, Government of Andhra Pradesh having office at Sri Anjaneya Towers, D.No.7-104, B-Block, 5th & 6th Floors, Vijayawada, Ibrahimpatnam, Andhra Pradesh-521 456 do hereby solemnly affirm and sincerely state as follows:


ATTESTOR

Asst. Director of Mines & Geology
SPSR Nellore Dist. (A.P)


DEPONENT

Director of Mines and Geology
Govt. of Andhra Pradesh, Ibrahimpatnam.

1. I am the deponent herein and as such I am well acquainted with the facts of the case and competent to swear to this counter affidavit. I have been authorized to file this counter affidavit on behalf of the 5th and 6th respondents.

2. This respondent denies each and every averment made in the affidavit filed in support of the application as false and incorrect except those that are specifically admitted herein in this counter affidavit.

3. With regard to the averment made in paragraph 1 of the affidavit is denied as false. It is respectfully submitted that, it is a fact that a Mining Lease was granted for Silica Sand over an extent of 512.01 Acres in Sy.No.695/22 & 696 of Momidi Village, ChillakurMandal, SPSR Nellore District in favour of Sri V.Ramachandra Reddy for a period of 20 years vide G.O.Ms.No.563, Industries and Commerce Department, dated 02.04.1975. Subsequently the lease was transferred in favor of M/s Sri Kumaraswamy Silica Mines vide G.O.Ms. No. 190, Industries and Commerce Department, dated 11.04.1985 for the unexpired portion of the lease period up to 30.09.1995. Further vide G.O.Ms.No.263, Industries and Commerce Department, dated 30.07.1998 has granted 1st Renewal of Mining Lease for a period of 20 years with effect from 04.09.1995 for reduced extent of 338.79 Acres by reducing the extent of 173.22 Acres from original extent of 512.01 Acres. Further M/s Sri Kumaraswamy Silica Mines has filed 2nd renewal application on 01.08.2014 and the Director of Mines & Geology, Hyderabad vide Notice No. 6111/R3-1/2016, dated 03.02.2017 has recommended for 2nd renewal of Quarry lease for a further period of 20 years w.e.f. 04.09.2015.

It is submitted that, as per the orders of NGT application No.96 of 2013, dated. 29.05.2015, the quarrying operations were stopped by this office since 29.05.2015, the non-submission of E.C by the lessee M/s. Sri Kumara Swamy silica mine is being 7threspondents.

It is submitted that, the Revenue Divisional Officer (FAC), Gudur, addressed a letter vide Rc.B2.733/2016, dated 24.01.2017 to the District Collector, Nellore under copy marked to this office in which he has informed after causing inspections that the village records namely Viz., Village RSR (diglot) and adangal of the village Momidi, Sy.No.696 measuring Acres 92.40 is classified as 'Forest Reserve Poramboke' but it was subsequently changed as


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Jungle poramboke vide Boards Orders 352, dated 12.02.1910 and at present it is treated as Adavi Poramboke (Jungle) as per the RSR the extent is Acres 92.40. But in the web land adangal copy, only an extent of Acres 22.40 was recorded as Government land AW. The remaining extent of Acres 70.00 was not brought to Account No.3 adangal. Further informed that verification of old adangalfasli 1413 available in the office and it was correctly recorded as Acres 92.40 Adavi Poramboke and instructed the Tahsildar, Chillakur to correct the entry as Acres 92.40 instead of Acres 22.40 and also the classification of the land as Adavi (Jungle) as recorded in the RSR.

It is respectfully submitted that, in the year 1975 the lease was granted whereas the Department of Mines & Geology was not existed and the Department came in to existence in the year 1977 even before that the lease was granted in favour of M/s Sri Kumaraswamy Silica Mines. Here neither the Revenue Department nor the Forest Department raised objections for conducting Mining operations in the so called Sy.No.696 thereby stating that it is Reserve Forest or Jungle Poramboke even after a span of nearly 40 years of grant of the same lease.

Aggrieved by the report of the RDO, Gudur the land in Sy.No.696 of Momidi Village falling in their lease is only 17.49 Acres was surrendered by the lease holder. Accordingly, the Director of Mines & Geology, Ibrahimpatnam vide Pros. No. 6111/R3-1/2016, dated. 29.06.2017 has issued orders for acceptance of part surrender of the area of 17.49 acres in Sy.No. 696 of Momidi (V), duly retaining an extent of 320.90 Acres in Sy.No. 695/22 of Momidi (V), Chillakur (M), SPSR Nellore District in favour of M/s. Sri Kumaraswamy Silica Mines.

A public hearing was conducted on 23.04.2016, in the subject area in accordance with procedure prescribed under the Environmental Impact Assessment Notification, 2006 for obtaining Environmental Clearance. Where in the Govt. of India vide Letter No:0-11015/19/2014, I.A.iii(M), Dated:10.08.2015 Ministry of Environmental Forest and Climate Change, Impact Assessment division has issued TOR(Terms of reference) to the subject leased area. The processed TOR(Terms of reference) would be viewed for a period of 3 years for submission of the Environmental Impact Assessment/EMI reports as per O.M.No.j-11013/41/2005-IA/II(1), Dated 07.01.2014, After preparing the draft EIA, the proponent will get the Public hearing to be conducted and to take further necessary action of obtaining Environmental


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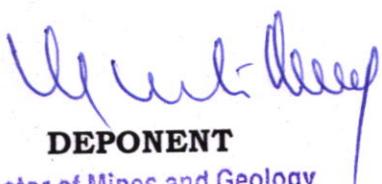
Clearance as per EIA Notification, 2006. In this connection, the public hearings conducted on 23.04.2016, in the presence of Joint Collector, Nellore Sub Collector, Gudur, Environmental Engineer, Gudur.

- Subsequently, as per F.No.23-238/2018-IA.II(V), the Govt. of India, Ministry of Environment, Forest and Climate Change(MoEF&CC), New Delhi has issued **Environmental Clearance(EC)** for production of 3,40,000 TPA(Tonnes per Annum) of Silica Sand from mine lease area of 129.866 Hectares (320.90 Acres) held by M/s. Sri Kumara Swamy silica mine.
- The Zonal office, Andhra Pradesh Pollution Control Board, Vijayawada vide Order No.N-493/APPCB/ZO-VJA/CFE/RED/2020, dt.12.06.2020 has issued **Consent Order for Establishment (CFE)** to M/s. Sri Kumara Swamy silica mine over an extent of 129.866 Hectars of Silica sand mine.
- The Zonal office, Andhra Pradesh Pollution Control Board, Vijayawada vide Order No.N-493/APPCB/ZO-VJA/CFO/W&A/2020, dt.16.07.2020 has issued **Consent Order (CFO)** to M/s. Sri Kumara Swamy silica mine over an extent of 129.866 Hectars of Silica sand mine.
- The quarry has not been working from 29.05.2015 to till to date.

It is submitted that, on 23.06.2015 and 24.06.2015 a joint inspection has been caused by staff of the Mines Department, officials of Regional Vigilance & Enforcement unit, Nellore and officials of Forest Department and officials of Revenue Department and noticed excavations. Subsequently, this Department raised penalty of Rs.55,28,293/- vide Demand Notice No. 4823/M5/2015, dated 21.03.2016. Aggrieved by the Demand Notice the lessee company has filed Revision before the Government. The Government has set aside the demand notice and remind back to the Dy. Director of Mines and Geology, Guntur. Here also though the Forest officials accompanied with inspecting team they did not report about encroachments towards forest. Moreover, in a statement provided by team of officials of Forest Department addressed to Regional Vigilance and Enforcement Officer, Nellore on 02.07.2015 in which it


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was stated that, the lessee firm M/s Sri Kumaraswamy Silica Mines neither changed any boundaries nor indulged in illegal excavations in the Momidi Forest.

It is Further submitted that the same petitioner has filed WP(PIL) No. 22 of 2017 with the same above allegations in the Hon'ble High Court of Andhra Pradesh and the case is pending before the Hon'ble High Court.

4. With regard to the averment made in paragraph 2,3,4 and 5 of the affidavit is denied as false. It is respectfully submitted that, as per the orders of NGT application No. 96/2013, dated. 29.05.2015, the quarrying operations were stopped by this office since 29.05.2015 due to non-submission of E.C by the lessee M/s. Sri Kumaraswamy Silica Mine is being one of the respondent.

It is submitted that the public hearing was conducted on 23.04.2016, in the subject area in accordance with procedure prescribed under the Environmental Impact Assessment Notification, 2006 for obtaining Environmental Clearance. Where in the Govt. of India vide Letter No: 0-11015/19/2014, I.A.iii(M), Dated:10.08.2015 Ministry of Environmental Forest and Climate Change, Impact Assessment division has issued TOR (Terms of reference) to the subject leased area. The processed TOR (Terms of reference) would be viewed for a period of 3 years for submission of the Environmental Impact Assessment/EMI reports as per O.M.No.j-11013/41/2006-IA/II (1), Dated: 07.01.2014. After preparing the draft EIA, the proponent will get the Public hearing to be conducted and to take further necessary action of obtaining Environmental Clearance as per EIA Notification, 2006. In this connection, the public hearings conducted on 23.04.2016, in the presence of Joint Collector, Nellore, Sub-Collector, Gudur, Environment Engineer, Gudur.

Further it is submitted that, as per F.No. 23-238/2018-IA.II(V), dated 16.04.2020 the Government of India, Ministry of Environment, Forest and Climate Change (MoEF&CC), New Delhi has issued Environmental Clearance (EC) for production of 3,40,000 TPA (Tonnes per Annum) of Silica Sand from mine lease area of 129.866 Hectares (320.90 Acres) held by M/s. Sri Kumaraswamy Silica Mines.

5. With regard to the averment made in paragraph 6 of the affidavit, it is submitted that it is not related to this respondent and hence no remarks submitted.


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6. With regard to the averment made in paragraph 7 of the affidavit is denied as false. It is respectfully submitted that, a public hearing was conducted on 23.04.2016, in the subject area in accordance with procedure prescribed under the Environmental Impact Assessment Notification, 2006 for obtaining Environmental Clearance. Where in the Govt. of India vide Letter No: 0-11015/19/2014, I.A.iii(M), dated 10.08.2015 Ministry of Environmental Forest and Climate Change, Impact Assessment division has issued TOR (Terms of reference) to the subject leased area. The processed TOR (Terms of reference) would be viewed for a period of 3 years for submission of the Environmental Impact Assessment/EMI reports as per O.M.No.j-11013/41/2006-IA/II(1), dated 07.01.2014. After preparing the draft EIA, the proponent will get the Public hearing to be conducted and to take further necessary action of obtaining Environmental Clearance as per EIA Notification, 2006. In this connection, the public hearings conducted on 23.04.2016, in the presence of Joint Collector, Nellore, Sub-Collector, Gudur, Environment Engineer, Gudur.

7. With regard to the averment made in paragraph 8 of the affidavit, it is submitted that it is not related to this respondent and hence no remarks submitted.

8. With regard to the averment made in paragraph 9 of the affidavit is denied as false. It is respectfully submitted that, F.No. 23-238/2018-IA.II(V), dated 16.04.2020, the Government of India, Ministry of Environment, Forest and Climate Change (MoEF&CC), New Delhi has issued Environmental Clearance (EC) for production of 3,40,000 TPA (Tonnes per Annum) of Silica Sand from mine lease area of 129.866 Hectares (320.90 Acres) held by M/s. Sri Kumara Swamy Silica Mine.

9. With regard to the averment made in paragraph (i ii, and iii) of the Grounds is denied as false. It is respectfully submitted that, as per F.No. 23-238/2018-IA.II(V), the Govt. of India, Ministry of Environment, Forest and Climate Change (MoEF&CC), New Delhi has issued Environmental Clearance (EC) for production of 3,40,000 TPA (Tonnes per Annum) of Silica Sand from mine lease area of 129.866 Hectares (320.90 Acres) held by M/s. Sri Kumara Swamy Silica Mine. As the subject matter under the purview of Govt. of India, Ministry of Environment, Forest and Climate Change (MoEF&CC), New Delhi.

10. With regard to the averment made in paragraph (iv and v) of the Grounds is denied as false. It is respectfully submitted that, a public hearing was


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conducted on 23.04.2016, in the subject area in accordance with procedure prescribed under the Environmental Impact Assessment Notification, 2006 for obtaining Environmental Clearance. Where in the Govt. of India vide Letter No:0-11015/19/2014, I.A.iii(M), Dated:10.08.2015 Ministry of Environmental Forest and Climate Change, Impact Assessment division has issued TOR (Terms of reference) to the subject leased area. The processed TOR (Terms of reference) would be viewed for a period of 3 years for submission of the Environmental Impact Assessment/EMI reports as per O.M.No.j-11013/41/2006-IA/II(1), Dated:07.01.2014. After preparing the draft EIA, the proponent will get the Public hearing to be conducted and to take further necessary action of obtaining Environmental Clearance as per EIA Notification, 2006. In this connection, the public hearings conducted on 23.04.2016, in the presence of Joint Collector, Nellore, Sub-Collector, Gudur, Environment Engineer, Gudur.

11. With regard to the averment made in paragraph (vi) of the Grounds is denied as false.It is respectfully submitted that, at the time of granting of Environmental Clearance by the authorities, the lease holder M/s. Sri Kumaraswamy Silica Mines is having Mining Scheme till 31.03.2020. Subsequently, Mining Scheme was approved by the Deputy Director of Mines & Geology, Nellore for the continuous period of 5 years, i.e., up to 31.03.2025.

12. With regard to the averment made in paragraph (vii and viii) of the Grounds is denied as false. It is respectfully submitted that, the RDO (FAC), Gudur accompanied with Assistant Director of Mines and Geology, Nellore and Deputy Director, Ground Water Department, Nellore caused joint inspection on 19.10.2016 in the Sy.Nos. 695 and 696 of Momidi Village, ChillkurMandal and reported that, the Deputy Director, Ground Water Department, Nellore after joint inspections reported that, water table is 2.85 Mts and the excavated depth is beyond 3 mts and recommended to do mining manually down to depth of 3 mts in order to avoid depletion of water level and to recharge the existing spring channels in the subject mining area.

13. With regard to the averment made in paragraph,(ix and x) of the Grounds, it is submitted that it is not related to this respondents and hence no remarks submitted.

14. With regard to the averment made in paragraph (xi) of the Grounds is denied as false. It is respectfully submitted that, the officials of Mines


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Department and officials of Regional Vigilance & Enforcement Department, Nellore, officials of Revenue Department, Chillakur Mandal and officials of Forest Department, Nellore have jointly inspected the mine on 23.06.2015 & 24.06.2015 and detected excess transportation of a quantity of 104096 MTs from within the leased area and 16048 MTs from other than the leased area (in Sy.No.695/22) of Momidi Village, Chillakur Mandal, SPSR Nellore District. Based on the findings a demand notice issued for an amount of Rs. 55,28,293/- vide Notice No. 4823/M5/2015, dated 21.03.2016 to the lessee firm for violation of Section (4) & (6) & 21(5) of MM (RD) Act 1957 & Rule 5 & 34 (1) of APMMC Rules, 1966.

Aggrieved to the above notice the lessee firm has filed Revision before the Government on 08.07.2016. Whereas the Government vide Memo No. 8610/M.I(1)/2016, dated 23.01.2017 while disposing the Revision set aside the demand Notice No. 4823/M5/2015, dated 26.06.2016 with a direction to the Deputy Director of Mines and Geology, Guntur after remitting back "to arrive at illegally excavated quantity correctly with proper documentary evidence in the deleted area, in existing leased area and also in the encroached area by taking the measurements in each area separately and to raise fresh demand notice after giving reasonable opportunity to the lessee. It is also directed to consider the deleted area to include in the lease again if there is any mineral available....."

Hence, the Department has initiated action against M/s Sri Kumaraswamy Silica Mines for payment of an evaded total amount of Rs. 85, 09,957/- in both the cases and st covered under stays issued by the Hon'ble High Court of AP and Revision by the Govt. As such, the petitioner's allegation as the respondents are not initiating any action against the lessee firm is not correct.

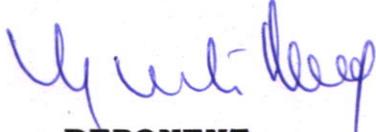
It is further submitted that, this office has submitted rejection proposals to the Director of Mines and Geology, Hyderabad on 06.05.2016 on the following violations.

(i) Conducted mining operations at some places with in the buffer Zone maintainable under Regulation 111(2) of Metallicferrous Mines Regulations 1961 in Eastern boundary line of the leased area. The same was reflected in the working plan.

(ii) At some places conducted mining operations within the area excluded from Mining lease area on either side of the Sona Channel passing through the


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leased area and abutting to the leased area and at some places workings are noticed beyond the recommended depth which will affect the ground water in the area which is violation as per the study report of the subcommittee submitted in July 2015 constituted by the SEIAA.

(iii) Indulged in illegal Mining and Transportation of Silica Sand detected by the various agencies and Department in two occasions and necessary action also initiated by the Department from time to time. The response from the leaseholder is nil again the payments of evaded Seigniorage Fee and penalty amounts to the State Exchequer.

Further the Director of Mines and Geology, Hyderabad vide Show Cause Notice No.6111/R3-1/2016 dt.25.06.2016, directed the M/s. Sri Kumara Swamy Silica Mines for submission of their show cause on the above violations.

Accordingly, M/s Sri Kumara Swamy Silica Mines has informed that the alleged grounds shown in the show cause notice are not sustainable grounds to reject their application for renewal. The same will not stand in the way for granting it, they also informed that they are always followed the conditions and as per the rules and they are always co-operated with authorities.

15. With regard to the averment made in paragraph, (xii xiii, xiv, xv, xiv and xvii) of the Grounds, it is submitted that it is not related to this respondents and hence no remarks submitted.

16. It is submitted that this respondent craves leave of this Hon'ble Tribunal to raise additional counter in the course of proceedings, if required.

In the above said circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above **Appeal.No.19 of 2020** and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

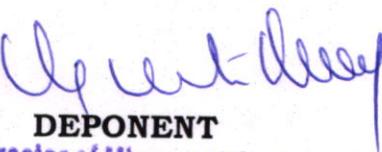
Solemnly affirmed at Vijayawada

on this the day of March, 2021

and signed his name in presence

BEFORE ME

ADVOCATE


DEPONENT
 Director of Mines and Geology
 Govt. of Andhra Pradesh, Ibrahimpatnam.

10 MAR 2021

ATTESTED

 J. RAMESH, B.A., B.L.,
 ADVOCATE & NOTARY
 No. 16/3/922-2, Srihari Nagar,
 Opp. T.D.P. Office,
 Mini Bypass Road, NELLORE - 3
 Appointed by Govt. of Andhra Pradesh, India
 Cell : 9885644719

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH CHENNAI.**

Appeal.No.19 of 2020

Between:

B.Madhan Kumar Reddy,
S/o. Chandra Reddy,
R/o. Momidi Village,
ChillakurMandal,
SPS Nellore District. ... Appellant

-VS-

1.The Government of India,
Rep. by its Director, Ministry of Environment,
Forest and Climate Change,
1A Division , 3rdfloor,vayu Wing,
Indira ParyavaranBhavan, Jorbagh Road,
Aliganj, New Delhi-110 003.
and 6 others.

... Respondents

COUNTER AFFIDAVIT FILED BY 4th RESPONDENT

**Mrs. MADHURI DONTI REDDY
(M.S. No.1485(a)/1994)
STANDING COUNSEL FOR GOVERNMENT OF ANDHRA PRADESH
POLLUTION CONTROL BOARD
Cell No.9840798460/6383121322**