

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL(SZ) CHENNAI.

M. A. No. 238 of 2017 (SZ)

IN

O. A. No. 97 of 2016(SZ)

IN THE MATTER OF :-  
Mrs. Suma R Nayak

....PETITIONER.

VERSUS.

The Ministry for forest, Ecology  
and Environment, and ors.

....RESPONDENTS.

Next Date. 26/08/2020

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THROUGH

Date:-22/08/2020  
Place New Delhi

  
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K-6, LGF, Lajpat Nagar- 3  
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Mob : + 91 9899125060  
Email - [darpan.advocate@gmail.com](mailto:darpan.advocate@gmail.com)



KARNATAKA FOREST DEPARTMENT

Office of the Deputy Conservator of Forests, Mangalore Division, PWD Building,  
Nehru Maidan Road, Hampankatta,  
Mangalore- 575001, Dakshina Kannada District, Karnataka.

Telephone: 0824 - 2423913 ; 0824 - 2411242

E-mail : def\_mngt@yahoo.co.in

No:LND/CR-21/Padil Com. Complex/2018-19

dated: 30-7-2020.

To,  
Government Advocate,  
National Green Tribunal,  
Southern Zone, Chennai.

Sir,

Subject: Note on Deemed forest / number of trees cut for  
construction of District Offices Complex at Padil -  
regarding.

Ref: Hon'ble National Green Tribunal, Southern Zone,  
Chennai M A No.238 of 2017 (SZ) In O A No. 97 of  
2016 (SZ) dated on 07-07-2020.

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With reference to the above I here by enclosing the updated note on  
Deemed Forest/ number of trees cut for the construction of District Offices  
Complex at Padil in Mangalore for your kind perusal.

Regards,

Yours faithfully,

  
Deputy Conservator of Forests,  
Mangalore Division, Mangalore.

2.

NOTE

1. The issue pertains to transfer of 5.89 acres of land in Sy.No.23/6A1B2, 23/12B, 23/12B, 23/6A2B,23/6B, and 23/3B of Alape village of Mangalore taluk, owned by M/S. Karnataka Forest Industries Corporation Limited, to Deputy Commissioner, Dakshina Kannada for construction of District office complex. The transfer is affected as per Govt. order Appaji-104-FPC.2014 dated 14-11-2014.
2. An advocate by name Suma R Naik, filed an application {Application no. 159 of 2015(SZ)} before National Green Tribunal, Southern Zone, Chennai seeking directions for restraining the respondents from cutting trees as the land is deemed forest.
3. The Hon'ble tribunal Passed an order on 27-01-2016 directing the authorities to consider the classification of land whether it is deemed forest or not as put forth by counsel for applicant along with all other necessary relevant provisions and pass suitable orders there on as required by Law.
4. To identify and categorise deemed forests, there is a Govt Order No: FEE 185 FAF 2011, Bangalore, Dated:15-05-2014. As per the order, there are three levels of committees. One at District Level headed by Deputy Commissioner of the district, one at Regional level headed by Regional Commissioner and one at State Level headed by Addl. Chief Secretary, Forest, Ecology and Environment.
5. As per the direction of the tribunal, the matter was placed before district committee on 23-02-2016. The committee opined that the land in question does not fall under the category for deemed forests and submitted their opinion to Regional Committee.
6. The regional committee met on 29-03-2016 and deliberated the subject and accepted the opinion of district committee and submitted further to State Level Committee for taking further action in the matter.
7. The state level Committee meeting was convened on 18-5-2016.

3.

The District and Regional Level Committees have replied on following points to opined that the land does not fall in the category of deemed forest.

a) The land in question was acquired by the land acquisition Officer in 19-10-1963 on request of Divisional Forest Officer, Mangalore for establishing wood preservation plant. On verification of the land acquisition records the following trees existed at the time of acquisition.

Sl.No.	Species of the plants	Trees
1	Cocoa	53
2	Banana	30
3	Drumstic	8
4	Tamarind	2
5	Junglewood	2
6	Firewood trees	4
7	Papaya	4
8	Cashew	7
9	Teak	2
10	Kasarka	3
11	Mango	37
12	Pongemia	8
12	Glaricidia	82
14	Daddale	4
15	Palm	1
16	Palm	1
17	Jackfruit	15
18	Soap nut	4
19	Arecanut	105
20	Beembuli	2
21	Pumello	2
22	Custard apple	1
23	Neem	3

Thus, originally the land was private and it was acquired. Later, as per Govt order No.AFFD.202.FDP.73. Bangalore dated 27-3-1975, the wood preservation plant was transferred from Forest department to M/S. Karnataka Forest Industries Corporation Limited. Later, as per the Govt order No.AHFF.220 FPC 87 Bangalore dated 19-11-1990, the vacant land and buildings were also transferred to the Corporation as an equity share of the state. Later, as per Govt.order Appaji-104-FPC.2014 dated 5.89 acres was

transferred to Deputy Commissioner, Dakshina Kannada, Mangalore for the construction of District Office complex building.

- b) The land in question is approximately square in shape having compound wall on three sides except the southern side. A public road exists along the north, east & western sides. Inside the compound wall, there exists an office building, residential quarters, Industrial shed, other small sheds and road connecting these buildings. The total extent of area covered by roads and buildings is 1.05 acres and out of which 0.60 acres is building area and 0.45 acres is road area. After deducting the road & building area, net area of the said land is 4.84 acres (1.90 Ha only). **Thus, the area is less than 2 ha and it does not fulfill the criterion required for categorising a land as deemed forest. (as per G.O. of 15-5-2014, for an area to be categorised as deemed forest, it should be at least 2 ha).**
- c) The land has not been included as deemed forest in the earlier Expert committee-1 report on Deemed Forests.
- d) The land is not a notified forest.
- e) The land doesnot fall in the category of statutorily recognized forest as provided in the Govt. order dated 15-5-2014 i.e., Kane, Bane, Kumki and lands reserved under the Karnataka Land Revenue Act 1964/Karnataka Land Reforms Act 1961/Karnataka Forest Act 1963.
- f) The land doesnot fall in the category of "Forest as per government records" as provided in Govt order dated 15.5.2014 i.e.,it is not recorded as 'Forest', 'Kadu', 'Mara kadu', 'Jungle' in government records namely,pre 1980 RTC, Forest Working Plan, Survey Settlement Records, District census Guide as forest, Tree forest, Jungle, or " Forest Paramboku" in the Karnataka Revenue Survey Manual.
- g) Out of total number of trees (existed in 2016) having more than 30 cm girth at breast height, 66 only are naturally grown, 320 are planted trees along with another 38 coconut trees. The area not only contains forest species, but also commercial crops such as Arecanut, coconut etc. Thus, it cannot be considered as block plantation. As per the government order "only block plantations on government lands can be considered as deemed forest".

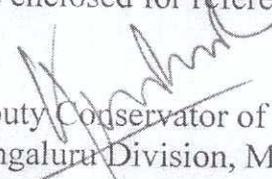
- 5
- h) The proposed land is owned by M/S.Karnataka Forest Industries Corporation Limited. The trees existing at present are either the ones existed in 1963 or planted by KSFIC. Thus, the plantation has to be considered as "institutional plantation". As per the government order "*Institutional Plantations are to be excluded from categorization as Deemed Forest.*" Further, if plantations carried out by industries and institutions are categorised as deemed forests, it would have negative influence on greening of such areas by institutions who may desist from taking up greening.
8. On 18-05-2016, the state level deemed forest committee deliberated on the issue and decided that the land in question is not a deemed forest.
9. The petitioners approached the honourable NGT questioning the decision of the Govt of Karnataka and filed petition in application No:97/2016 for the second time .
10. Honourable NGT sue-moto made MOEF as a party and directed the APCCF regional office of the MOEF to inspect the spot and submit a report. APCCF (Central) visited the spot and submitted report to the honourable NGT.
11. The Government of Karnataka, the respondents have filed statement of objections on 07-12-2016.
12. This application was dismissed by the Hon'ble National Green Tribunal on 20-12-2017 as the applicant remains absent and has not engaged a counsel.
13. Further in the meantime the applicant approached the tribunal and filed a M.A. No. 238 of 2017 (SZ) in O.A. No. 97 of 2016 (SZ).
14. Hon'ble National Green Tribunal directed that it is appropriate to constitute a committee comprising of (1) District Collector, Mangaluru (2) Deputy Conservator of Forests, Mangaluru to inspect the area in question and submit a status report, stating the status of Plantation its survival rate and whether all necessary permissions have been granted, before this Tribunal within a period of three weeks through e-mail.
15. In this connection, it is to inform that felling permission was given for 229 trees out of 666 trees (502 trees which are more than 30 cm. and 164 trees which are below 30 cm.) in padil DC office complex area by the Tree

6.

officer & Asst. Conservator of Forests, Mangaluru Sub-division  
Mangaluru.

Further, An amount of ₹. 5,07,194/- was collected from the User Agency (Asst. Engineer, KHB, Mangaluru) for Extraction & Afforestation purpose and it was remitted to State Government, under receipts for afforestation budget head.

16. Recently tree officer raised demand for 273 trees to be cut for the said purpose as requested by the User Agency on 19-6-2019. As the User Agency has not paid the amount for raising plantation, felling permission has not been given by the tree officer sofar.
17. The construction work of the said building is under progress an there is no space for replanting in the said area. Hence, afforestation is not carried out in this area. In lieu of that about 3000 saplings were planted in various places of Mangaluru city and within the Mangaluru Taluk limit, namely; Mangalore University, Konaje, Navodaya Vidyalaya, Pilikula Golf Club etc, under AIOA Scheme (Afforestation in other Areas).
18. The performance of these saplings in terms of survival and establishment is good. Photographs of the saplings along with the location and geo-coordinates and EC obtained from the Environmental department for construction of the above said building are enclosed for reference.

  
Deputy Conservator of Forests,  
Mangaluru Division, Mangaluru

Annexure - R - 17

**Karnataka State Pollution Control Board**

"Paragana Bhavana", 1st to 5th Floor, # 49, Church Street, Bengaluru - 560 001, Karnataka, India  
"Paragana Bhavana", 1st to 5th Floor, # 49, Church Street, Bengaluru - 560 001, Karnataka, India

ROE

KHB/Mangaluru

/BY REGD. POST WITH ACK. DUE /  
(This document contains 05 pages)

NO PCB/173/CNP/18/

CB-1888

Date **24 AUG 2018**

To  
The Executive Engineer,  
M/s Karnataka Housing Board,  
Division Hassan - 573 201.

Sir,

Sub: Consent for Establishment (CFE) to construct District Office having built up area of 17,909.28 Sq m located at Sy No 23/3, 23/4B, 23/6A2B, 23/6A102, 23/6B, 23/12B, 23/3P, 23/6A2BP, 23/6BP, 23/12BP, Alape Village, Mangaluru Taluk, D.K District by M/s Karnataka Housing Board

4/18 Ref. 1. CFE applications received at Regional Office, KSPCB, Mangaluru on 18.05.2018

2. Inspection of the proposed project site by Officer of the Regional Office, KSPCB, Mangaluru on 07.06.2018.
3. Proceedings of the Consent Committee Meeting held on 26.07.2018



With reference to the above, it is to be informed that this Board hereby accords Consent for Establishment under the Water (Prevention & Control of Pollution) Act 1974, to construct District Office having built up area of 17,909.28 Sq m located at Sy No. 23/3, 23/4B, 23/6A2B, 23/6A102, 23/6B, 23/12B, 23/3P, 23/6A2BP, 23/6BP, 23/12BP, Alape Village, Mangaluru Taluk, D.K District M/s. Karnataka Housing Board, subject to the following conditions.

Environmental Aspects and Management during the course of construction:

- a) The applicant shall arrange services like housing facility, water supply, sewage facilities on a temporary basis at construction site and same shall be maintained without any adverse impact on the environment.
- b) The applicant shall control the movement of vehicles carrying construction materials in order to avoid noise pollution in the surrounding.

[Signature]  
SENIOR ENVIRONMENTAL OFFICER

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4. All the treatment units shall be made impervious and fixed such that there is no discharge of sewage outside the premises
5. Separate energy meter shall be provided to STP's also flow meters and a log book on reading of energy meter and flow meters shall be maintained
6. The applicant shall adhere to the CFE/CFO conditions even after handing over Layout/Plots to individual persons.

**IV. AIR POLLUTION CONTROL:**

1. There shall not be any air pollution sources without prior approval from the Board
2. The applicant shall provide dust suppression systems with water sprinkling system during construction period.
3. The applicant should make provisions for dual piping system to use the treated sewage water for toilet flushing, gardening and other secondary purposes.

**V. NOISE POLLUTION CONTROL:**

1. The applicant shall ensure that the ambient noise levels and ambient air quality within its premises during construction and after construction shall not exceed the limits specified in the Environment (Protection) Rules, i.e. the noise level from the noise generating equipments viz., DG sets, AC units etc. shall not exceed 55 dB(A) Leq during day time and 45 dB(A) Leq during night time.

**VI. SOLID WASTE DISPOSAL & Hazardous Waste Disposal:**

1. The applicant shall collect, treat and dispose off all solid waste generated during construction i.e. Muck, and Garbage after construction if any in such manner so as not to cause environmental pollution.
2. The applicant shall apply and obtain authorization for management & handling of waste oil under Hazardous & other Waste (Management & Transboundary Movement) Rules, 2016.
3. The applicant shall earmark sufficient place for segregation and processing and convert the bio-degradable solid waste generated from unit into compost within their premises with scientific method.
4. The applicant shall strictly follow the Government Notification No. FEE 17 EPC 2012 Bangalore dated 11.03.2016 with regard to plastics ban.
5. (a). The applicant shall strictly follow Construction & Demolition Waste Management Rules, 2016.  
(b). The applicant shall display the C&D waste Management Rules in site and ensure the compliances.

*Murugesh Wally*  
SENIOR ENVIRONMENTAL OFFICER

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VI. HEALTH & SAFETY:

1. The applicant shall provide all necessary healthcare facilities for workers and shall carry out routine health survey among workers.
2. The applicant shall provide all safety measures including personal protective equipments to workers during construction.

VIII. GENERAL:

1. The applicant shall maintain natural hallah and other such features as in the relevant survey map and adopt zonal regulations of the concerned Planning Authorities.
2. The applicant must create structure/facility for rain water harvesting and ground water recharge.
3. The applicant shall provide dual piping system in the layout in order to use the treated sewage for toilet flushing, gardening and other secondary purposes.
4. The applicant shall arrange for alternate power supply in the form of D.G. Set to run and operate the essential units of sewage treatment plant, in event of brake down of regular supply from Electricity Board.
5. Exact date of commissioning of the sewage treatment plant shall be informed to this Board 45 days in advance so as to make necessary inspection of the plant and the pollution control measures provided by the applicant.
6. The applicant shall appoint a qualified Environmental Engineer/ Scientist for the Management of Environmental aspects and also establish Environmental Cell to oversee the operation of STP.
7. The applicant shall make provisions for wooded Buffer zone all along the periphery of the layout.
8. The applicant shall implement the Environmental Management Plan during construction and after construction as given under EMP report.
9. The applicant shall not change or alter (a) number of Sites (b) Layout plan (c) the quality, quantity or rate of discharge/ emissions and (d) install/replace/alter the water or air pollution control measures without the prior approval of the Board.
10. The applicant shall immediately report to the Board of any accident or unforeseen act or event resulting in release of discharge of effluents or emissions or solid wastes etc., in excess of the standards stipulated, and the applicant shall immediately take appropriate corrective and preventive actions under intimation.
11. The Board reserves the right to review, impose additional condition or conditions, revoke, change or alter the terms and conditions.

23/8/18  
SENIOR ENVIRONMENTAL OFFICER

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- 12. This consent for establishment is valid for Five years from the date of issue for completion of all construction works.
- 13. This CFE does not give any right to the Party/Project Authority to forego any legal requirements which is necessary for setting operation of the project.
- 14. The project authorities shall dispose sterility Bio-medical waste and electronic waste to authorized common disposal facility and authorized recipient respectively by entering into agreement as per new Bio Medical Waste Management Rules 2016 and E-Waste Management Rules 2016.
- 15. The project authorities shall not use Kharab land if any for any purpose and keep available to the general public duly displaying a board as public property. No structure of any kind be put up in the Kharab land and shall be afforested and maintained as green belt only.
- 16. The applicant is liable to reinstate or restore damaged or destroyed elements of environment at his cost, failing which, the applicant/corporation as the case may be shall be liable to pay the entire cost of remediation or restoration and pay in advance an amount equal to the cost estimated by Competent Agency or Committee.
- 17. The CFE is issued without prejudice to the Court case pending in any Hon'ble Court.

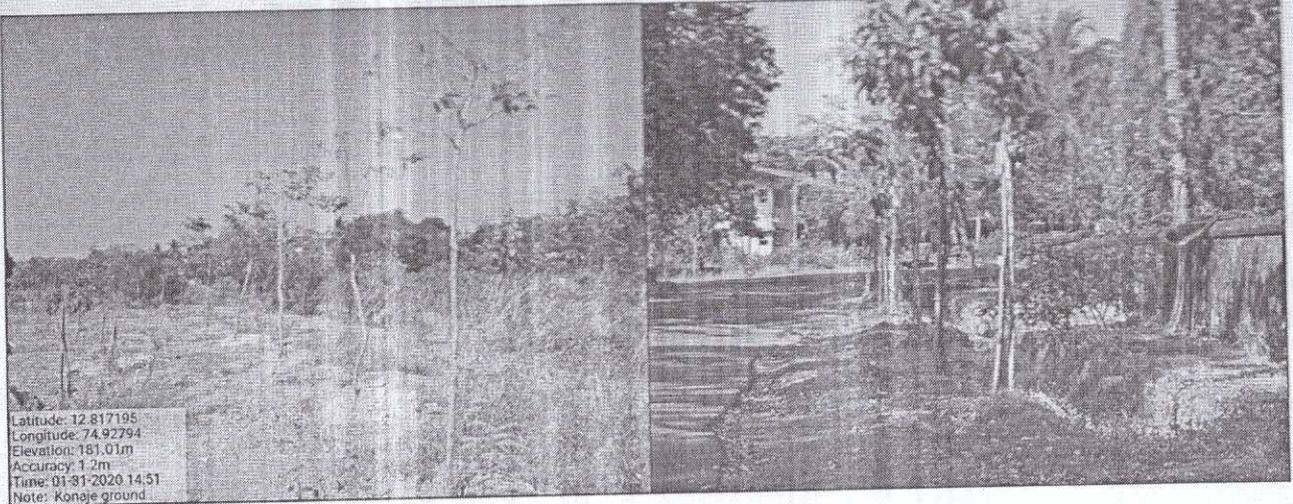
Please note that separate consent of the Board for discharge of liquid effluent shall have to be obtained by remitting prescribed consent fee. The application for consent has to be made 45 days in advance to completion of Residential Layout. Issue of consent will be considered only after completion of sewage treatment plant, solid waste management facilities.

The receipt of this letter may please be acknowledged.

For and on behalf of  
Karnataka State Pollution Control Board

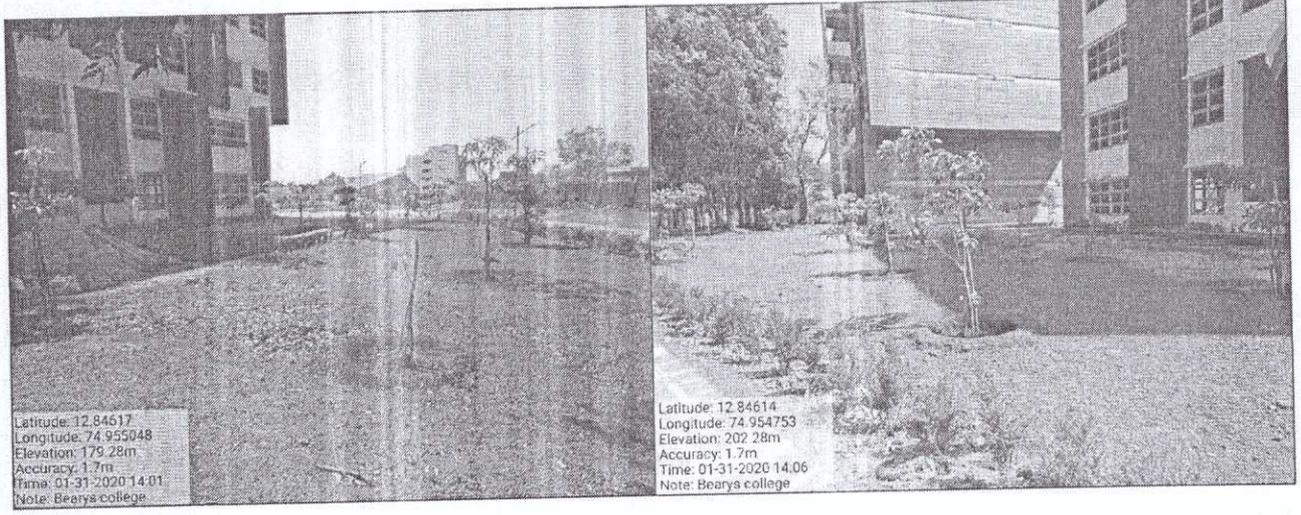
*[Signature]*  
SENIOR ENVIRONMENTAL OFFICER

ಕೋಣಾಚೆ ವಿಶ್ವವಿದ್ಯಾನಿಲಯ, ಕೋಣಾಚೆಗಮ್ಮ, ಕೋಟೆಕಾರು ಶಾಖೆಯಲ್ಲಿ ಬೆಳೆಸಿದ ನೆಡುತೋಪು.



Latitude: 12.817195  
Longitude: 74.92794  
Elevation: 181.01m  
Accuracy: 1.2m  
Time: 01-31-2020 14:51  
Note: Konaje ground

2018-19ನೇ ಸಾಲಿನಲ್ಲಿ ಇತರ ಪ್ರದೇಶಗಳಲ್ಲಿ ಅರಣ್ಯೀಕರಣ ಯೋಜನೆಯಡಿಯಲ್ಲಿ ಬ್ಯಾರೀಸ್ ಕಾಲೇಜು, ಕೋಟೆಕಾರು ಶಾಖೆಯಲ್ಲಿ ಬೆಳೆಸಿದ ನೆಡುತೋಪು.



Latitude: 12.84617  
Longitude: 74.955048  
Elevation: 179.28m  
Accuracy: 1.7m  
Time: 01-31-2020 14:01  
Note: Bearya college

Latitude: 12.84614  
Longitude: 74.954753  
Elevation: 202.28m  
Accuracy: 1.7m  
Time: 01-31-2020 14:06  
Note: Bearya college

2018-19ನೇ ಸಾಲಿನಲ್ಲಿ ಇತರ ಪ್ರದೇಶಗಳಲ್ಲಿ ಅರಣ್ಯೀಕರಣ ಯೋಜನೆಯಡಿಯಲ್ಲಿ ಕೆ.ಎಸ್. ಹೆಗ್ಡೆ ನಿಟ್ಟೆ, ಪನ್ನೀರ್, ಕೋಟೆಕಾರು ಶಾಖೆಯಲ್ಲಿ ಬೆಳೆಸಿದ ನೆಡುತೋಪು.



Latitude: 12.797313  
Longitude: 74.885357  
Elevation: 111.5m  
Accuracy: 1.0m  
Time: 01-31-2020 16:40  
Note: K s hegde nitte paner

Latitude: 12.797388  
Longitude: 74.8852  
Elevation: 114.3m  
Accuracy: 0.8m  
Time: 01-31-2020 16:38  
Note: K s hegde nitte paner

*I. Williams*

2018-19ನೇ ಸಾಲಿನಲ್ಲಿ ಇತರ ಪ್ರದೇಶಗಳಲ್ಲಿ ಆರಣ್ಯೀಕರಣ ಯೋಜನೆಯಡಿ ಸುತ್ತು  
 ವಿಲಿಹಳ್ಳಿ ಗಾಲ್ಫ್ ಕ್ಲಬ್, ಕುಮ್ಭು ಗಮ್ಮ, ಮಂಗಳೂರು ಶಾಖೆಯಲ್ಲಿ ಬೆಳೆಸಿದ ನೆಡುತೋಪು.



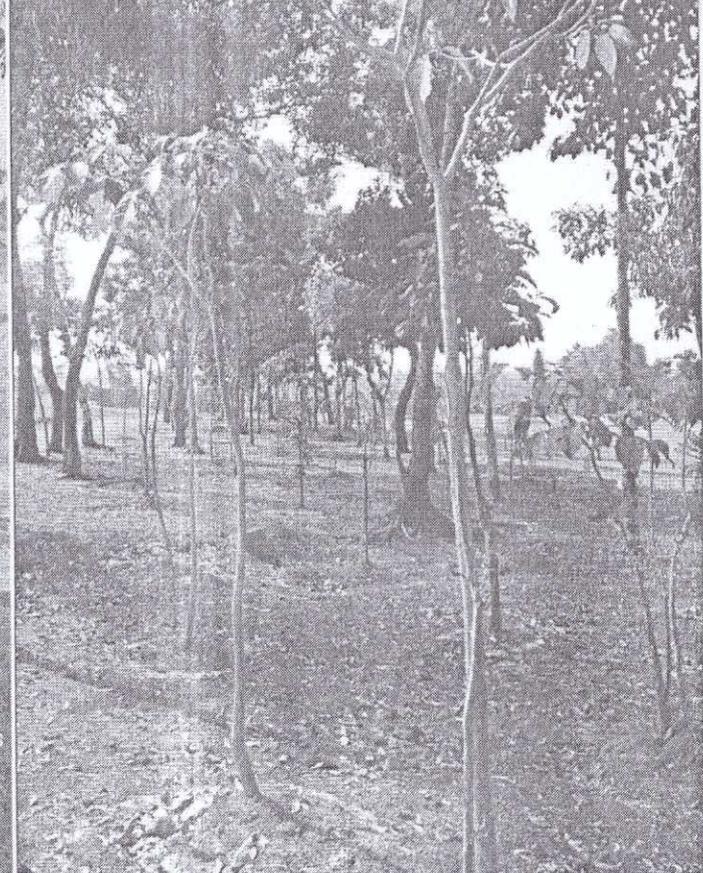
Moodushadde Rd, Vamanjoor, Mangalore, Karnataka 575028, India



Type	Degree	DMS
Latitude	12.9229121 54248937	12°55'22" N
Longitude	74.8940179 310739	74°53'38" E

Clouds  
27 °C  
80.6 °F

01 Feb 2020, 10:29 am



Moodushadde Rd, Vamanjoor, Mangalore, Karnataka 575028, India



Type	Degree	DMS
Latitude	12.9246872 3971005	12°55'29" N
Longitude	74.8946096 9343781	74°53'41" E

Clouds  
25 °C  
78.8 °F

01 Feb 2020, 10:26 am

*P. S. Manna*  
 Range Forest Officer  
 MANGALORE RANGE, MANGALORE

Item No.7

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

M.A. No. 238 of 2017 (SZ)

In

O.A.No.97 of 2016 (SZ)

IN THE MATTER OF:

Mrs. Suma R. Nayak

.. Applicant

Vs.

The Ministry of Forest, Ecology & Environment,

Government of Karnataka & others

... Respondent(s)

Date of hearing: 7.7.2020

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For applicant : Mr. Stanley Hebzon Singh

For Respondent(s) : Mr. Darpan Kumar for R1 to R4

Mr. G.M. Syed Nurullah Sheriff for R5

ORDER

As per order dated 10.1.2020, this Tribunal had constituted a committee to go into the violation mentioned in the application and submit a report and posted the case to 11.2.2020. On 11.2.2020,

since report was not filed, at the request of the committee, the same was adjourned to 24.3.2020. On 24.3.2020, it was adjourned to 27.4.2020, on 27.4.2020, it was adjourned to 25.6.2020, on 25.6.2020, it was adjourned to 6.7.2020 and on 6.7.2020, it was adjourned to today by successive notifications.

2. Mr. Stanley Hebzon Singh, learned counsel represented applicant, Mr. Darpan Kumar, learned counsel represented respondents 1 to 4 and Mr. G.M. Syed Nurullah Sheriff, learned counsel represented fifth respondent.

3. Learned counsel appearing for respondents 1 to 4 submitted that due to Covid - 19, the committee could not submit the report and he wanted one month time to submit the report.

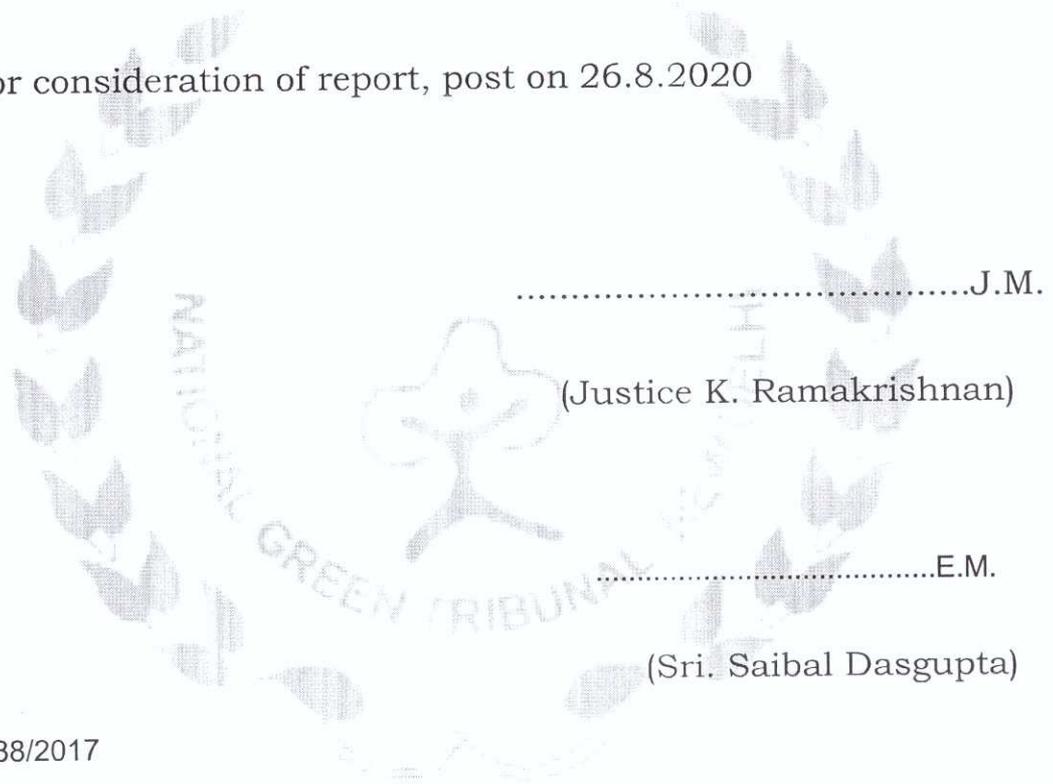
4. So one month time is granted to the committee to submit the report and the committee is directed to submit the report before this Tribunal on or before 26.8.2020 through e-mail or e-filing at [ngtszfilings@gmail.com](mailto:ngtszfilings@gmail.com).

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5. Registry is directed to communicate this order to the members of the committee through e-mail immediately so as to enable them to comply with the direction of this Tribunal.

6. If respondents want to file any independent response regarding the same, they are also at liberty to file the same before the next hearing date.

For consideration of report, post on 26.8.2020



.....J.M.  
(Justice K. Ramakrishnan)

.....E.M.  
(Sri. Saibal Dasgupta)

M.A.238/2017

7.7.2020

kk