

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI
ORIGINAL APPLICATION No.226 of /2021**

Gollapalli Bhaskar Reddy

... Petitioner

AND

The State of Andhra Pradesh and Others

... Respondents

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Filed by: Mrs. M.Sumathi
Advocate for MoEF&CC

Mob. NO 9884177779

Email: sumathi010672@gmail.com

Place:

Date:

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI
ORIGINAL APPLICATION No.226 of /2021**

Gollapalli Bhaskar Reddy ... Petitioner

AND

The State of Andhra Pradesh and Others ... Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF RESPONDENT NO.05,
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE**

I, Balaji Kari, S/o Dhanunjayarao Kari, aged 43 years, Occupation: Govt. services, r/o Vijayawada, do hereby solemnly affirm and state on oath as under: -

1. I am working as Assistant Inspector General of Forests, Integrated Regional Office, Vijayawada, Ministry of Environment, Forest and Climate Change, Government of India, duly authorized and competent to swear the present Counter affidavit on behalf of Ministry of Environment, Forest and Climate Change (herein after referred as MoEFCC)-respondent no.05.
2. I have gone through the petitioner's affidavit filed in support of above petition and submit the following facts before Hon'ble Tribunal;
3. In reply to various allegations and averments made in the petitioner's affidavit filed in support of above OA, it is respectfully submitted that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, inter alia, being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned judgments and directions of the Hon'ble Supreme Court.



4. It is respectfully submitted that, to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto, the Parliament in the Thirty- First Year of the Republic of India enacted the Forest (Conservation) Act, 1980 ("FC Act", for short). FC Act came into force on 25th October, 1980.
5. It is submitted that section 2 of the Forest (Conservation) Act, 1980 ('FC Act', for short) provides that;
- "Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-*
- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;*
 - (ii) that any forest-land or any portion thereof may be used for any non-forest purpose;*
 - (iii) that any forest-land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;*
 - (iv) that any forest-land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation.*
6. It is submitted that the Hon'ble Supreme Court vide interim order dated 12.12.1996 in *W.P(Civil) No.202/1995(T.N Godavarman Thirumalpad vs. Union of India & Others)* has issued explicit directions for cessation of all non-forestry activities going on in forest area without prior approval of Central Government. The Apex Court vide order referred to above has stated that the word "Forest" must be understood according to its dictionary meaning and also the term 'forest land' occurring in Section '2' of Forest (Conservation) Act, 1980 will not only include 'forest' as understood in the dictionary sense, but also any area recorded as forest in the Government records irrespective of ownership or classification thereof.

Amint

7. It is respectfully submitted that, the answering respondent vide letter F.No.FC/IRO-VIJ/FCA/NGT/55-04/2021/101 dated 12th December 2021 and vide reminder letter No. FC/IRO-VIJ/FCA/NGT/55-03/2021/22 dated 25.01.2022 has requested the PCCF, Andhra Pradesh to furnish the legal status of the land in question, total extent of area as per the revenue record and the consequent applicability of the orders of the Hon'ble Supreme Court in WP (Civil) No. 202 of 1995 (T.N Godavarman Thirumalpad vs Union of India & Ors.) on the instant court case and the above mentioned report is still awaited from the PCCF, Andhra Pradesh.

Copy of the letter dated F.No. FC/IRO-VIJ/FCA/NGT/55-04/2021/101 dated 12th December 2021 and reminder letter No. FC/IRO-VIJ/FCA/NGT/55-03/2021/22 dated 25.01.2022 are placed as Annexure-R1 & R2 respectively.

8. It is respectfully submitted that the Principal Chief Conservator of Forests (HoFF) Andhra Pradesh vide letter EFS02-22022/48/2021-WLR-2 dated 10.02.2022 informed the following;

“As per the report of the Divisional Forest officer, Ananthapuramu, the subject land i.e., Sy.no.427-1, 432-1, 432-2 and 427-3 is revenue land and the total extent of area is 14.84 Acres (copy enclosed) as per the revenue records.

Regarding the consequent applicability of the orders of the Hon'ble Supreme Court in W.P.(Civil) 202 of 1995 (T.N Godavarman Thirumalpad vs. Union of India & Others) to the subject land treating it as deemed forest, it is informed that criteria for definition of “deemed forest/land falling under dictionary meaning of “forests” which are not under the administrative control of Forest Department and its identification and notification need to be done, and the same are yet to be finalized by the State Government”

Copy of the Principal Chief Conservator of Forests (HoFF) Andhra Pradesh vide letter EFS02-22022/48/2021-WLR-2 dated 10.02.2022 and annexure referred therein are enclosed as Annexure R3

9. That, this Respondent craves liberty to rely on the present affidavit and thereafter reserves its right to file additional information before the Hon'ble Tribunal, if required till Pendente-Lite.

(Signature)

10. That, in view of the foregoing submissions, this Hon'ble Tribunal may be pleased to pass such or further orders as it may deem fit in the given circumstances of the case.


DEPONENT
Balaji Kari

Assistant Inspector General of Forests
Min. of Env. Forest & CC
Integrated Regional Office
Vijayawada, A.P.

VERIFICATION:

I, Balaji Kari, S/o Dhanunjayarao Kari, aged 43 years, Occupation: Govt. services, r/o Vijayawada, the deponent above named do hereby verify that the contents of the above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at on this 11th day of, March, 2022-


DEPONENT
Balaji Kari

Assistant Inspector General of Forests(C)
Min. of Env. Forest & CC
Integrated Regional Office
Vijayawada, A.P.



भारतसरकार

GOVERNMENT OF INDIA

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय

MINISTRY OF ENVIRONMENT, FORESTS & CLIMATE CHANGE

Integrated Regional Office, Vijayawada

Green House Complex, Gopal Reddy Road

Vijayawada – 520010, Andhra Pradesh

email: iro.vijayawada-mefcc@gov.in**MOST URGENT-COURT MATTER**

F.No IRO/VIJ/FCA/NGT/55-04/2021/101

Date 12th December, 2021

To

The Principal Chief Conservator of Forests,
Forests Department, Govt. of Andhra Pradesh,
Aranya Bhavan, K.M. Munshi Road, Nagarampalem Guntur-522004

Subject: Original Application No. 226 of 2021 in the matter, Gollapalli Bhakar Reddy Vs. The State of Andhra Pradesh and Others-reg.

Sir,

Please find enclosed herewith copy of O.A No 226 of 2021 in the matter, Gollapalli Bhakar Reddy Vs. The State of Andhra Pradesh & Others, pending before the Hon'ble National Green Tribunal (Southern Zone). This is to inform that the Ministry of Environment, Forest and Climate Change, Government of India is arrayed as respondent number 05 in instant OA.

In this regard, as state government is the custodian of the land records, it is requested that the legal status of the land in question, total extent of area as per the revenue record and the consequent applicability of the orders of the Hon'ble Supreme Court in WP(Civil) 202 of 1995 (T.Godavarman Thirumalpad vs Union of India & Ors.) on the instant court case, may kindly be furnished to this office.

This being the court matter, may be dealt on top priority and it is requested that the requisite report may please be submitted at the earliest.

Encl: As above

Yours faithfully,

(N.S.Murali)

Inspector General of Forests (Central)

Copy to:-

1. The Assistant Inspector General of Forest (Central), Forest Protection Division, MoEF&CC, New Delhi 110003 for information please

N.S.Murali)

Inspector General of Forests (Central)



भारतसरकार
GOVERNMENT OF INDIA
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
MINISTRY OF ENVIRONMENT, FORESTS & CLIMATE CHANGE
Integrated Regional Office, Vijayawada
Green House Complex, Gopal Reddy Road
Vijayawada – 520010, Andhra Pradesh
email: iro.vijayawada-mefcc@gov.in



**MOST URGENT-
COURT MATTER**

F.No. IRO/VIJ/FCA/NGT/55-03/2021/22

Date 25th January, 2022

To

The Principal Chief Conservator of Forests (hOFF)
Forests Department, Govt. of Andhra Pradesh,
Aranya Bhavan, K.M. Munshi Road, Nagarampalem Guntur-522004

Subject: O.A No 226 of /2021 in the matter, Gollapalli Bhakar Reddy vs. The State of Andhra Pradesh and Others pending before the National Green Tribunal (Southern Zone)-reg.

Reference: This office letter No.FC/IRO-VIJ/FCA/NGT/55 04/2021/101 dated 12th December 2021 (Copy enclosed)

Sir,

Kind attention is invited to the subject and reference cited above, wherein, this office had requested for furnishing the legal status of the land in question, total extent of area as per the revenue record and the consequent applicability of the orders of the Hon'ble Supreme Court in WP(Civil) 202 of 1995 (*T.N. Godavarman Thirumalpad vs Union of India & Ors.*) on the instant court case. This is to inform that the same is still awaited.

Therefore, it is once again requested that the requisite report may please be submitted at the earliest.

This being a court matter priority may please be accorded.

Encl: As above

Yours faithfully,

(N.S.Murali)

Inspector General of Forests (Central)

Copy to:-

The Assistant Inspector General of Forest (Central), Forest Protection Division,
MoEF&CC, New Delhi 110003 for information please.

GOVERNMENT OF ANDHRA PRADESH**FOREST DEPARTMENT**

From Sri N.Prateep Kumar,
I.F.S.,
Prl. Chief Conservator
of Forests &
Head of Forest Force,
Aranya Bhavan, Andhra
Pradesh,
Guntur.

To
The Inspector General of Forests (Central),
MoEF &CC, Integrated Regional Office, Vijayawada, Green
House Complex, Gopal Reddy Road, A.P, Vijayawada-520010.

Rc.no.EFS02-22022/48/2021-WLR-2, Dt:10/02/2022

Sir,

Sub:APFD - NGT case - O.A.no.226/2021 (SZ) and I.A.no.178/2021 (SZ) filed by Gollapalli Bhaskar Reddy Vs State of Andhra Pradesh & Others before the Hon'ble NGT, Southern Zone, Chennai - Report submitted - Regarding.

Ref: 1.Gol, MoEF & CC F.No.IRO/VIJ/FCA/NGT/55-04/2021/101, dt:12.12.2021.

2.Gol, MoEF & CC F.No.IRO/VIJ/FCA/NGT/55-03/2021/22, dt:25.01.2022.

It is to inform that, through the reference 1st cited, the Government of India, MoEF&CC, IRO, Vijayawada have requested to furnish the legal status of the land in question, total extent of area as per the revenue record and the consequent applicability of the orders of the Hon'ble Supreme Court in W.P.(Civil) 202 of 1995 (T.Godavarman Thirumalpad vs Union of India & Others) in connection with the O.A.no.226/2021 (SZ) filed by Gollapalli Bhaskar Reddy Vs State of Andhra Pradesh & others before the Hon'ble NGT.

In this connection, it is informed that as per the report of the Divisional Forest Officer, Ananthapuramu, the subject land i.e., Sy.no.427-1, 432-1, 432-2 and 427-3 is revenue land and the total extent of area is 14.84 Acres (copy enclosed) as per the revenue records.

Regarding the consequent applicability of the orders of the Hon'ble Supreme Court in W.P.(Civil) 202 of 1995 (T. Godavarman Thirumalpad vs Union of India & Others) to the subject land treating it as deemed forest, it is informed that criteria for definition of "deemed forest/land falling under dictionary meaning of forests" which are not under the administrative control of Forest Department and its identification and notification needs to be done and the same are yet to be finalized by the State Government.

This is for favour of information and necessary action.

Encl: As above



Yours faithfully,

N Prateep Kumar Ifs

Principal Chief Conservator Of Forests

**Government of Andhra Pradesh
Forest Department**

From,

Sri. Sandeep Krupakar Gundala, IFS,
District Forest Officer,
Ananthapuramu.

To,

The Prl. Chief Conservator of Forests,
(Head of Forest Force)
A.P., Guntur.

(THROUGH PROPER CHANNEL)

Rc. No. 1580/2021/G8, Dt.23.12.2021

Sir,

Sub:-	APFD – NGT Case – Original Application no. 226 of 2021 filed by Sri. Gollapalli Bhaskar Reddy Vs the State of Andhra Pradesh and others – Report submitted – Reg.
Ref:-	1. Goi, MoEF &CC F.No. IRO/VIJ/FCA/NGT/55-04/2021/101, Dt. 12.12.2021. 2. Prl.CCF, A.P., Gutnur Rc.No. EFS02-22022/48/2021-WLR-2 Dt. 21.12.2021. 3. CCF, ATP Rc.No. 797(i)/2021/M9 Dt. 22.12.2021.

It is submitted that in the reference 2nd cited the Prl. Chief Conservator of Forests (HoFF), A.P. Guntur while communicating the Ministry of Environment, Forest & Climate Change, GoI reference 1st cited has issued instructions to submit the information on legal status of the land in question and consequent applicability of the orders of the supreme court in W.P.C. (Civil) 202/1995 on the instant case along with copies of reports filed before the Hon'ble National Green Tribunal, (SZ) Chennai in O.A. No. 226 of 2021.

In obedience to the above I am here with submit the following for favour of perusal and further action.

FACTS OF THE CASE:-

One Sri Ayan Nagpal, M/s Agro Corp Land base Pvt. Ltd., Lepakshi (V) & (M) has submitted an application for trimming, pruning and removal of some trees in Sy.Nos. 432-2, 427-3 of Lepakshi (V&M), Ananthapuram

district and in Sy.Nos. 432-1, 427-1 belonging to Sri L. S. Nowshad for development of vegetable garden and for agriculture.

The District Forest Officer, Ananthapuramu has issued tree cutting permission with a valid period upto 24.10.2021 in Rc. No. 1505/2021/G8 dated 08.10.2021 duly following the procedure given by the Prl. Chief Conservator of Forests, A.P. and there is no violation in this regard.

Meanwhile, One Sri Gollapalli Bhaskar Reddy, S/o Late G. Narayana Reddy, R/o Hindupur has approached the Hon'ble NGT, (S.Z), Chennai challenging the legality and validity of orders issued by the District Forest Officer, Ananthapuramu (Who is 4th respondent in this case) vide Rc. No. 1505/2021/G8, dated 08.10.2021 and seeking appropriate direction to stop these orders.

As per the oral instructions given by the Hon'ble Tribunal to the Forest Department no further extension of felling permission has been given to Sri Ayan Nagpal, M/s Agrocorp Lands base Pvt. Ltd. The owner of the land cut only 22 tamarind trees. The 4th respondent i.e., District Forest Officer, Ananthapuramu has filed Counter Affidavit before the Hon'ble NGT, (S.Z), Chennai on 23.11.2021.

Subsequently the owner of the land had made an application dated 24.10.2021 to the District Forest Officer that he could not cut the trees within the stipulated time of 15 days due to heavy rains. But no such extension was given in the light of the orders issued by the Hon'ble NGT on 24.11.2021 to maintain "Status Quo" to the present tree cover in the said land, and the matter has also been informed to the land owner.

Further the Hon'ble Court while allowing the IA No. 178/2021 (SZ), it was ordered that 4th Respondent (i.e., District Forest Officer, Ananthapuramu) is directed to file further statement and the 6th Respondent (M/s Agrocorp Lands base Pvt. Ltd, C/o Ayan Nagpal) is directed to file their independent statement, apart from other official respondents filing their independent response. Accordingly the 4th Respondent i.e., District Forest Officer has prepared further statement and filed before the Hon'ble NGT (S.Z) Chennai on 10.12.2021.

Regarding information on legal status of the land and applicability of the supreme court orders in W.P.C. (Civil) 202/1995, the following information is submitted for favour of perusal and further action.

1. Legal Status of the land in Question, total extent of area as per revenue records.

It is submitted that the Sub-Collector, Penukonda, Ananthapuramu District vide his Rc.No. 2609,2021/K, Dt. 23.11.2021 has submitted that the Tahsildhar, Lepakshi has personally inspected the land in Sy.No. 427-1, 432-1, 432-2 & 427-3 of Lepakshi village of Lepakshi Mandal on 23.11.2021 along with village Revenue Officer and Licensed Surveyor. The lands are situated to Eastern side of Lepakshi village and nearer to Somireddypalli village of LepakshiMandal. The said lands are mixed soil and not in cultivation since 20 years. The land in Sy.No. 427-1 Ext. 1.06 Acres and Sy.no. 432-1 Ext. 2.16 Acres is classifies as G.P. (Thopu) as per RSR. Later, the lands transferred from Thopu to AW in the years 1934 vide C.A. Dis No. 963/34, Dated. 07.03.1934 and the same has been assigned in favour of one Abdul Saheb Yakoob Sab vide D.A. R.Dis. No. 112/43, Dt. 26.08.1935. At present the said land is kept waste.

With regard to the land in Sy.No. 427-1 Ext. 1.06 Acres, the legal-heirs of assignee have sold away an extent of land 0.53 Acres to T.V. Ratnamma W/o Reddappa and remaining extent stands in the name of assignee legal-heir i.e., Noushad S/o Iqbal saheb. One bore well exist in Sy.No. 427-1 ext. 0.53 Acres. A block top road exist in the Sy.No. 427-1 ext. 0.53 acres, which is passing from Lepakshi - Chilamathur main road to Somireddy palli Road.

With regard to the land in Sy.No. 427-3 ext. 2.56 Acres and 432-2 ext. 11.16 Acres, the said lands are classified as patta lands and stand in the name of Abdul saheb gari yakoob saheb as per RSR vide kulam no. 406 of Lepakshi village. The legal heirs of Adbul yakoob saheb have sold away lands in Sy.No. 427-3 and 432-2 to M/s Agro Crop lands base Pvt. Ltd. At present the lands are kept waste and under possession of M/s Agro Crop

lands base Pvt. Ltd. The purchaser of the land has laid fencing to the said lands.

Further with regard to total extent of area applied for tree felling permission, it is submitted that, the Tahsildhar, Lepakshi has furnished certificate for owner ship of Trees is as follows.

Sl.No	Sy.No	Extent (Acres)	
1	427-1	0.53	
2	432-1	2.18	Total:- 2.71 Acres (Nowshad)
3	432-2	11.16	
4	427-3	0.97	Total:- 12.13 (Ayan Nagpal)
Total:-		14.84	

Further, the Tahsildhar, Lepakshi certified that proposed land is not recorded as "Forest" in the revenue records.

It is submitted that it is very clear that all Sy. No.s 427-1, 432-1, 432-2 and 427-3 are revenue lands from the beginning.

2. Consequent applicability of the orders of the Hon'ble Supreme court in W.P. (Civil) 202 of 1995 (T. Godavarman Thirumalpad Vs Union of India & Ors) on the instant court case.

It is submitted that, an Expert Committee was constituted under G.O.Ms. No. 1, EFS & T (For.I) Department, dated 10.01.1997 to examine the issues raised by Hon'ble Supreme Court in T.N. Godavarman Thirumalpad case and the committee has submitted its final report on 27.12.1997. The Committee members were directed to go into various important aspects of identification of

a) Areas which are 'forest' irrespective of whether they are so notified, recommended are classified under any law and irrespective of ownership of the land of such forest.

b) Areas which were earlier forest but stand degraded, denuded, or cleared and

c) Areas covered by plantations belonging to the Government or private persons.

It is submitted that the Committee in its final report has followed the action taken by the Prl. Chief Conservator of Forests and also other field officers and submitted the final report as per the Government orders. **The gist of the final report in respect of item No. (a) & (c) above are as follows.**

a) Areas which are 'forest' irrespective of whether they are so notified, recommended are classified under any law and irrespective of ownership of the land of such forest.

The Committee has recommended that the existing procedure adopted in the State definition of 'forest' as per the Forest (Conservation) Act, 1980 should be continued and also all private land bearing natural tree growth of more than 0.40 density and having an extent of 10 ha shall be treated as forest, in terms of definition of forest as defined in the Forest Act.

In the present case, the tree growth in question is not "natural tree growth", but a plantation. Similarly, the total area is less than 10 ha, so it is very clear that the tree cover in question does not come under the definition of 'forest'

c) Areas covered by plantations belonging to the Government or private persons.

It is submitted that the Committee reiterates its earlier recommendations that under no circumstances, the present activity of planting by farmers outside the RF should be discouraged by any changes to be made in the definition on 'forests'. This will have counterproductive effect, as more forest raised outside the RF will help in better protection of the degraded forests. The committee suggests that the private plantations should not be subjected to any restrictions as per the laws or definition of

the forests. Any such measures will dampen the initiative taken by the farmers who are taking in big way for tree planting outside the RF area.

It is submitted that the committee opined that plantation or growing up any trees by either Government or by private persons to be identified as plantation only and should not be treated as 'forest' in terms of any definition under Forest (Conservation) Act, 1980.

It is submitted that it is very clear that Sy. No.s 427-3 and Sy. No. 432-2 are patta lands from the beginning and Sy. No. 427-1 and 432-1 are assigned lands which were G.P. (Thopu) before 1934 and transferred from 'Thopu' to A.W. in 1934. Further, felling permission is allowed in Sy.No. 427-3 and Sy. No. 432-2 and only trimming permission was given in Sy.No. 427-1 and 432-1 which has a total area of only 2.71 acres.

It is submitted that the Sub-Collector, Penukonda has submitted that no information regarding who planted tamarind saplings in the above survey numbers and date of plantations and year of plantations is also not available with the Revenue Department.

It is submitted that the nearest Vana Samrakshana Samith (VSSs) i.e., Adepalli VSS has given resolution dated 02.12.2021 stating that the VSS members have not done any plantation in Sy. Nos. 432-1, 427-1, 427-3 and 432-2.

Under the circumstance explained above it is submitted that as per the final report of the committee, all private land bearing natural tree growth of more than 0.40 densities and having an extent of 10 ha shall be treated as forest, in terms of definition of forest as defined in the Forest Act. But total extent of these four survey numbers is less than 10 ha and it is not natural growth but a tamarind plantation probably by the pattadars. Hence, the land in question does not come under the definition of forests.

In view of the above I am herewith enclosing the following copy of the documents filed before the Hon'ble National Green Tribunal (SZ), Chennai for favour of perusal and further action.

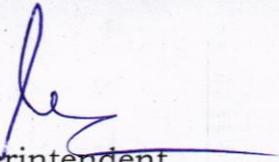
1. O.A. No. 226 of 2021.
2. Counter affidavit filed by the DFO, Ananthapuramu
(4th respondent) dt. 23.11.2021.
3. Orders of the Hon'ble NGT, SZ, Chennai Dt. 24.11.2021.
4. Further statement of the DFO, Ananthapuramu dt. 10.12.2021 filed
before the Hon'ble NGT, SZ, Chennai.

This is submitted for favour of necessary action.

Yours faithfully,
Sd/-Sandeep Krupakar Gundala,
District Forest Officer,
Ananthapuramu.

Copy submitted to the Chief Conservator of Forests, Ananthapuramu Circle,
Ananthapuramu for favour of information.

//t.c.b.o//


Superintendent


23-12-2021