

E-Acknowledgement

Reference Id	RuaWIW7au2I9yN
Amount	1300.00
Merchant Order Code	2212250043366
Bank Name	HDFC
Transaction Date	22-12-2025 13:47:21
Status	SUCCESS

(Note: This is a computer generated receipt and does not require any signature/stamp. Please enclose this e-Receipt with e-Challan at the time of challan submission to the department)

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT IT'S EASTERN ZONE BENCH, KOLKATA

O.A. NO. 200 OF 2025

IN THE MATTER OF:-

Digambar Bag

....APPLICANT

-Versus-

State of Odisha & Ors.

....RESPONDENTS

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13. Vakalatnama '438

Place: New Delhi

Date: 22.12.2025

DRAFTED AND FILED BY:

Mbachani

Mansi Bachani, Gitanjali Sanyal & Anubhav Anand
Advocates, Enviro Legal Defence Firm
29, Presidential Estate Nizamuddin East, New Delhi -110013
mansi@eldfindia.com; 8600531203

SETTLED BY:

Sanjay Upadhyay
[Senior Advocate]

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT IT'S EASTERN ZONE BENCH, KOLKATA**

O.A. NO. 200 OF 2025

IN THE MATTER OF:-

Digambar Bag

....APPLICANT

-Versus-

State of Odisha & Ors.

....RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO. 09 – VEDANTA LTD. ,
JHARSUGUDA, TO THE MAINTAINABILITY OF O.A. NO. 200/2025**

MOST RESPECTFULLY SHEWETH:

1. That the present Original Application (O.A.) has been filed on 25.09.2025 alleging, illegal encroachment of forest land by the Vedanta Jharsuguda (Respondent No. 09) of 7.45 acres in Khata No.- 55, Plot No.- 55, 54/421, 383/479(P) in Banjari Mouza as well as over 48.68 acres of forest land at Mouza- Bhurkamunda, Khata No.- 108, Plot No. 188 in violation of the Forest Conservation Act, 1980.
2. That on 09.12.2025, this Hon'ble Tribunal noted the submissions of the Respondent No. 09 herein, clarifying that the issue pertaining to the alleged encroachment of forest land of 7.43 acres in Khata No. 55 in Banjari Mouza is pending consideration before the Hon'ble High Court of Orissa in W.P. No. 4919 of 2017. Further, vide Order dated 27.03.2017, the Hon'ble High Court of Orissa in Misc. Case No. 4301 of 2017 has stayed proceedings in Encroachment Appeal Case No. 58/2016. This Hon'ble Tribunal also noted the submission of the Respondent No. 09 that the allegation of encroachment of 48.48 acres of forest land in Khata No. 108, Plot No. 188 in Mouza 0Bhurkamunda, was raised previously before this Hon'ble Tribunal in the

case of Non Violence Again v. Vedanta Ltd., [O.A. No. 151 of 2016] and the said Original Application No. 151/2016 was dismissed being barred on the grounds of limitation vide Order dated 13.11.2017. In view of the abovementioned submissions, the Respondent No. 09 herein was directed to file the said Writ Petition and the orders passed by the Hon'ble High Court of Orissa, along with the Order of this Hon'ble Tribunal in the case of Original Application No. 151/2016, for adjudicating upon the maintainability of the present Original Application before this Hon'ble Tribunal.

3. That accordingly, the present Affidavit is being filed, to put on record the objections of the Answering Respondent to the maintainability of the present Original Application, which is not only grossly barred by limitation but also res-judicata as it raises similar issues and grounds, which are sub-judice before the Hon'ble High Court of Orissa or have been adjudicated upon by this Hon'ble Tribunal or by competent revenue authorities.
4. That it is submitted that the Respondent No. 09 herein operates an Aluminium Smelter and Captive Power Plants in Village – Bhurkhamunda, PO Kalimandir, District Jharsuguda, Odisha in pursuance of an Environmental Clearance dated 06.04.2007, which was subsequently amended on 11.06.2008 and 05.05.2022.
5. That the Answering Respondent at the outset seeks to submit its objections on maintainability of the Original Application, vis-à-vis Khata No. 55.

I. The Hon'ble High Court of Orissa has taken cognizance of the allegation pertaining to encroachment of forest land in Khata No. 55 (Plot No. – 55, 54/421, 383/479(P)) in Banjari Mouza, Jharsuguda, Odisha.

6. That it is alleged by the Applicant herein that the Respondent No. 09, through its unit, has encroached upon the forest land of 7.45 acres having Kissam-

Gramya Jungle in Khata No. 55 (Plot No. – 55, 54/421, 383/479(P)) in Banjari Mouza, Jharsuguda, Odisha.

7. That the said issue was raised before the requisite revenue authorities in 2016, in Encroachment Case No. 03/2016 for alleged encroachment of 2 acres and 0.26 acres of forest land on Khata No. 55(Plot No. 55 and 54/421), in Banjari Mouza, Jharsuguda, Odisha for setting up temporary labour camps by SEPCO Electric Power Construction Corporation, the then contracting agency of Respondent No.09.
8. Another Encroachment Case No. 04/2016 was initiated for alleged encroachment of 5.44 acres on Khata No. 55 (Plot No. 383/479), in Banjari Mouza, Jharsuguda, Odisha for setting up Electricity Transmission lines through Gramya jungle, against the Respondent No. 09 under the Odisha Prevention of Land Encroachment Act, 1972 .
9. That with respect to Encroachment Case No. 03/2016 for alleged encroachment of 2 acres and 0.26 acres on Khata No. 55 (Plot No. 55 and 54/421), after detailed proceedings for more than a year under the Odisha Prevention of Land Encroachment Act, 1972, the Answering Respondent deposited Rs. 53,927/- on 28.12.2017. The copy of the payment receipt is attached as **ANNEXURE R/1**. No appeal or proceedings are pending before any other court in this regard/case as per the knowledge of Respondent No.09.
10. That specifically with respect to Encroachment Case No. 04/2016, the Revenue Inspector vide Order dated 17.02.2016, confirmed encroachment of forest land by Respondent No. 09 due to the construction of the electricity transmission lines. The said Order was challenged by the Respondent No. 09 in Appeal No. 58 of 2016 under the Odisha Prevention of Land Encroachment Act, 1972. During the pendency of the Encroachment Appeal, the Sub-Collector vide Order dated 15.12.2016 allowed impleadment of a private third

party, one Mr. P Ram Mohan, for submitting additional documents against the Respondent No. 09, without considering the objections of Respondent No. 09 to the said Impleadment Application.

The true copy of the Appeal No. 58 of 2016 is marked and annexed as **ANNEXURE R/2**. The true copy of the Order dated 15.12.2016 of the Sub-Collector is marked and annexed as **ANNEXURE R/3**.

11. That aggrieved by the Order dated 15.12.2016 of the Sub-Collector, the Respondent No. 09 challenged the same in Writ Petition (C) No. 4919 of 2017 along with Misc. Case No. 4301 of 2017, before the Hon'ble High Court of Orissa. On 27.03.2017, the Hon'ble High Court of Orissa issued Notice and directed that there shall be a stay on further proceedings in the Encroachment Appeal No. 58 of 2016 pending before the Sub-Collector Jharsuguda. Thus, the Hon'ble High Court of Orissa has completely stalled the proceedings with respect to the Encroachment Appeal no. 58/2016 before the Sub-Collector on merits, due to procedural non-compliance. The true copy of the Writ Petition No. 4919 of 2017 is marked and annexed as **ANNEXURE R/4**.

The true copy of the Order dated 27.03.2017 along with the screenshot of the High Court website showcasing pendency of the Writ Petition, is marked and annexed as **ANNEXURE R/5 [Colly]**.

That the abovementioned facts vis-à-vis Khata No. 55, specifically allegations of encroachment of forest land in Plot No. – 55, 54/421, 383/479(P) in Banjari Mouza, is pending consideration before the Hon'ble High Court of Orissa.

II. Objections to the maintainability of the allegations of encroachment of forest land pertaining to Khata No. 108

12. That it has been further alleged, that the Answering Respondent has illegally encroached forest land at Mouza – Bhurkamunda, Khata No. – 108 (Plot No. 188, area of 48.86 acres) and made a mountain of Fly-ash over the said land.

At the outset, it is pertinent to reiterate that the Applicant herein has hidden certain crucial facts, including the Applicant's own proceedings before the Hon'ble High Court of Orissa on the same issue. This Hon'ble Tribunal may take strict note of the conduct of the Applicant herein, who is approaching this Hon'ble Tribunal on time-barred issues

13. That the proceedings with respect to allegations of encroachment over Khata No. 108 were initiated in Encroachment Case No. 158/2013 by the Tehsildar against Respondent No. 9. The said allegations were finally set aside by the Sub Collector, Jharsuguda in Encroachment Appeal No. 03/2014 vide Order dated 06.09.2017.

True copy of Order dated 06.09.2017 passed in Appeal No. 03 of 2014 has been marked and annexed as **ANNEXURE R/6**.

14. That simultaneously, on the same issue of encroachment of forest land in Khata No. 108, Bhurkhamunda, by alleged unauthorised dumping of fly ash by Respondent No. 09, a Petition was filed by the Original Applicant herein before the Odisha High Court and another Application was filed by one NGO named "Non Violence Again" before this Hon'ble Tribunal.

a. Details of proceedings before the National Green Tribunal

15. That an Original Application was filed on 03.10.2016, in the matter of Non Violence Again v. Vedanta Ltd., O.A. No. 151 of 2016, before the Eastern Bench of this Hon'ble Tribunal alleging illegal encroachment of forest land in Khata No. 108 by Respondent No. 09 herein by unauthorised dumping of fly ash.

16. That, on 13.11.2017, this Hon'ble Tribunal in its Judgement, observed that the Applicant in O.A. No. 151 of 2016, became aware of the first cause of

action on 16.08.2013, however, the Original Application was filed after 3 years, which is much beyond the prescribed time limit under Section 14(3) of the National Green Tribunal Act, 2010. It was also observed that there was no continuous cause of action under the NGT Act, 2010 hence the O.A No. 151 of 2016 was barred by limitation and accordingly dismissed by this Hon'ble Tribunal.

True copy of the Judgement in Non Violence v. Vedanta Ltd., OA No. 151 of 2016, EZ dated 13.11.2017 was marked and annexed as **ANNEXURE R/7**.

b. Details of proceedings before the Orissa High Court and the subsequent developments

17. That the Original Applicant herein, Digambar Bag, filed W.P.(C) No. 2660 of 2015 before the Hon'ble High Court of Orissa raising the same issue as is being raised in the present Application i.e., encroachment of forest land in Khata No. 108. The Hon'ble High Court of Orissa disposed of the Writ Petition on 13.02.2015, directing the Principal Secretary, Revenue and Disaster Management Department, to consider the Representation of Digambar Bag. The true copy of the Writ Petition No. 2660 of 2015 is marked and annexed as **ANNEXURE R/8** . The true copy of the Order dated 13.02.2015 of the Hon'ble High Court of Orissa in W.P.(C) No. 2660 of 2015 is marked and annexed as **ANNEXURE R/9**. It is surprising that the same Original Applicant has failed to submit the requisite details and has approached this Hon'ble Tribunal alleging fresh knowledge of the said case on the basis of reply to his RTI application

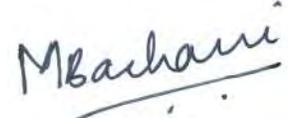
18. That thereafter on 23.03.2019, the Principal Secretary, without considering the Order dated 06.09.2017 of the Sub-Collector, directed the Collector to revoke the permission granted to Respondent No. 09 on 21.07.2011 for storing fly ash on Plot No. 108 and collect the requisite Government dues and fine for the same. The true copy of the Order dated 23.03.2019 of the Principal Secretary is marked and annexed as **ANNEXURE R/10**.
19. That on 17.09.2019, the Respondent No. 09 herein challenged the order of the Principal Secretary dated 23.03.2019 before the Hon'ble High Court of Orissa in W.P.(C) No. 17332 of 2019, which continues to remain sub-judice before the Hon'ble High Court of Orissa. The relevant extracts of the W.P. (C) No. 17732 of 2019 along with Orders passed in the said Writ Petition as well as the screenshot of the case status from the High Court portal. is marked and annexed as **ANNEXURE R/11 [Colly]**.
20. That, in view of the abovementioned facts and position of law, it is the humble submission of the Respondent No. 9 that the matters pertaining to encroachment of forest land in Khata No. 55 as well as Khata No. 108 are pending adjudication on merits before the Hon'ble High Court of Orissa and thus need not be adjudicated upon by this Hon'ble Tribunal as it may result into multiplicity of proceedings and inconsistent orders. It is also a settled principle of law that any Original Applicant approaching this Hon'ble Tribunal should do so within the limitation period prescribed by this Hon'ble Tribunal in Section 14 of the National Green Tribunal, 2010 as well as should approach this Hon'ble Tribunal with clean hands and satisfy the test of Section 18 of the National Green Tribunal, 2010.
21. That However, the Original Applicant herein has misled this Hon'ble Tribunal by filing the same allegations of encroachment as were filed by him before the High Court of Orissa in 2015. Such conduct of the Original Applicant

should be strictly taken note of by this Hon'ble Tribunal, and the present Application deserves to be dismissed in limine on this ground itself.

Place: New Delhi

Date: 22.12.2025

DRAFTED AND FILED BY:



Mansi Bachani, Gitanjali Sanyal & Anubhav Anand
Advocates, Enviro Legal Defence Firm
29, Presidential Estate Nizamuddin East, New Delhi -110013
mansi@eldfindia.com; 8600531203

SETTLED BY:

Sanjay Upadhyay
[Senior Advocate]

**IN THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 200 OF 2025**

IN THE MATTER OF:

Digambar Bag

...Applicant

Versus

State of Odisha & Ors.

...Respondent (s)

AFFIDAVIT

I, Satyapriya, S/o Shri Arvind Shankar Singh, aged about 50 years, am the authorized signatory for M/s Vedanta Limited, Core-6, 2nd Floor, SCOPE Complex, 7, Lodhi Road, New Delhi-110003, do hereby solemnly affirms and declares as under:

1. That I am fully conversant of the facts and circumstances of the matter and am competent to swear this affidavit.
2. The contents of the accompanying Reply are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.
3. That the Annexures in the Reply are true and correct to the best of my knowledge.

M. B. ... 07/12/2025

Identified the deponent who has signed in my presence

For Vedanta Limited
Satyapriya
Authorised Signatory
DEPONENT

VERIFICATION:

19 DEC 2025

Verified at New Delhi on this _____ day of December 2025 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.



ATTESTED
S. B.
NOTARY (Govt. of India);
SANTOSH DEVI
Advocate
Seat No. 13, SDM Gallery
Patiala House Courts,
New Delhi-110001
(M): 9582542624

19 DEC 2025

For Vedanta Limited
Satyapriya
Authorised Signatory
DEPONENT

Date: 28th December 2017

The Tahasildar
Jharsuguda

Sub: Payment of pending rent for encroachment case no.03/2016

Ref: Notice issued by Collector, Jharsuguda dated 23.12.2017

Dear Sir,

With reference to the above mentioned letter & subject cited above, we are enclosing herewith a Demand drafts bearing No.503717 Dtd.28.12.2017 amounting to Rs.53,937/- (Rupees Fifty Three Thousand Nine Hundred Thirty Seven Only) towards deposit of pending rent for encroachment case no.03/2016.

The receipt of the same may kindly be acknowledged.

Thanking you,

Yours faithfully

For Vedanta Limited

Received with
D.D. no. 503717 dt. 28.12.17
D.H.
29.12.17


Nabal Mishra Sharmas
Head - Land & Legal

Copy to: The Collector & District Magistrate, Jharsuguda

Received
29/12/17

DRAWEE'S ACCOUNT NO.
 Drawee Branch
 DATE
 VALID FOR THREE MONTHS ONLY
 P D M M Y Y Y Y
 ON DEMAND PAY
 FIFTY THREE THOUSAND NINE HUNDRED SEVENTY TWO ONLY
 OR ORDER
 RUPEES
 53,972.00
 ₹
 01/5/12 Not Above ₹ 99,999.00
 998200078914
 BADMAL
 Issuing Branch
 Authorised Signatory
 Authorised Signatory
 Please sign above

⑈ 502737⑈ 000229000⑈ 003932⑈ 36

I hereby acknowledge.

Thanking you,
Yours faithfully
For Vedanta Limited

Received with
D.D no. 502737 dt 23/12/12
24/12/12

NKS
Nabal Kishor Sharma
Head - Land & Legal

Received *29/12/12*
Copy to: The Collector & District Magistrate, Jharsuguda

Note for approval

Dtd: 23.12.2017

Tehsildar, Jharsuguda has alleged encroachment of Government land admeasuring 2.26 acres at plot no. 55 & 55/421 in village Banjari for our industrial purpose. However, we have been able to clarify that there is no encroachment from our end and it was SEPCO who had some establishments thereon. It was subsequently removed by SEPCO on our information. However, as the land was occupied by SEPCO for some period of time, hence Tehsildar has levied land revenue for Rs. 53,937/- (Rupees Fifty Three Thousand Nine Hundred Thirty Seven Only) for usage of the scheduled land. This being a land revenue, hence the same is to be paid timely by dtd: 27.12.2017.

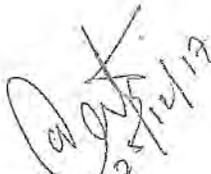
A Demand Draft to be issued in favour of "Tahsildar, Jharsuguda" payable at Jharsuguda.

This is an one time vendor approval.

Accordingly, submitting the note for approval.

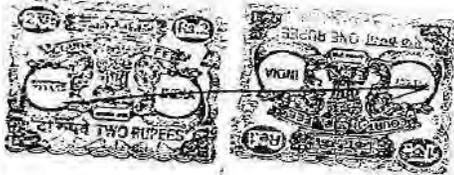

N.K. Sharma


Ashok Sonthalia


Abhijit Pati

5808

ANNEXURE-1



Handwritten signature/initials

8

*Bl, New
to 4/8/16
for her/his own
admission
[Signature]
1-8-16*

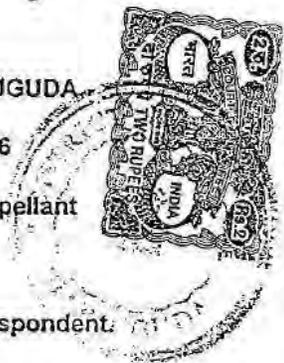
IN THE COURT OF SUB-COLLECTOR, JHARSUGUDA

ENCH. APPEAL NO. 58 OF 2016

Vedanta Aluminium Ltd. Appellant

-vrs-

State of Orissa Respondent



APPEAL U/S 12 OF O.P.L.E. ACT

Deleg. Collector

Most respectfully the appellant begs to state as follows :-

- 1. Case admitted
- 2. Call for LRA
- 3. GH for a sketch report from Tah.

1. That, the appellant was serviced with a notice under the O.P.L.E. Act to show cause as to why action as provided U/S, 4, 7 & 8 of the said Act shall not be taken against for un-authorized occupation of Govt land as reported by Revenue Inspector, Jharsuguda on 17.02.2016 in Encroachment Case No.4 of 2016.

*Case to file
[Signature]
4-8-16*

2. That, the appellant on the date fixed i.e. on 29.04.2016 filed a petition denying liability of encroachment after that the Respondent sought for detail report from the RI.

[Signature]

3. That, the Revenue Inspector submitted the same report and the respondent passes order to issue notice U/S 6 (1) of the O.P.L.E. Act 1972 in Form No.B to vacate the land within 30 days from the date of receipt of this notice or else they will be evicted from the case land as per law.

[Signature]
[Signature]

Being aggrieved by the order of learned Tahasildar, Jharsuguda, the appellant prefers this appeal before your Honour on the grounds amongst others.

(i) For that the impugned order suffer from serious irregularities and legal formalities. As a matter of fact the appellant has neither been heard nor given a chance of adducing evidence which is sheer

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[Signature]
17/2/17
Copist Clerk

[Signature]
Comparing Clerk
17-2-17

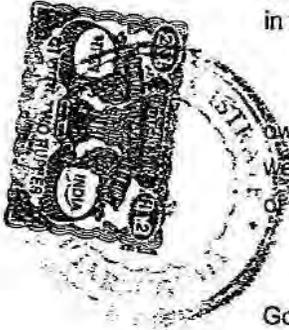
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②
⑨

2.

violation of principle of natural justice and equity and also prejudicial. Moreover there are many legal infirmities crept in the order .

- (ii) For that the learned Tahasildar should have believed that appellant has never encroached the case land nor in physical possession of the case land pertaining to M.S Khata No.55 of village Banjari. There is no existence of the factory or its ancillary of the company in the case land.



The case land is still a Village forest Kisam land and the ownership of the said land still lies in the revenue records. There were few shrubs, tree growth on the said having no any construction of the factory by the appellant till date.

Be it mentioned here that only in order to supply electricity to Govt, few high-tension electric towers have been passing through the said area at height of 30 to 40 meters from ground level without affecting the tree growth therein and cannot be construed as possession or encroachment of the case land. Further, there is no interference in the use of the land by the villagers and nature of said land remains intact.

- (iii) For that, the aforesaid facts could have been properly ascertained by way of a field enquiry / inspection by the Tahasildar, Jharsuguda in presence of all concerned and the appellant. It could have also been ascertained through legal evidences, which the appellant was deprived of and given no chance of hearing. The report of R.I is nothing but a table disposal. Had the Revenue Inspector would have properly enquired into the matter, he could have marked that in order to keep security and safety of animals / public at large, it has been temporarily fenced in a proper manner just to help the tree growth and safety and security of all.

There never exists any factory or its ancillary of the appellant's company in the case land at any point of time even till date.

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[Signature]
17/3/12
Cotspzifing Clerk

COMPA RED BY MB

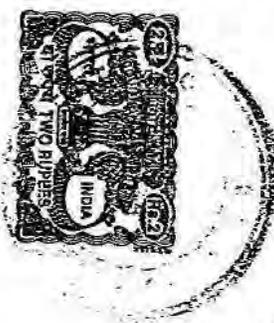
[Signature]
17.3.12
Cotspzifing Clerk

22

3 (10)

3.

- (iv) For that, a detailed survey should have been initiated with the assistance of R.I. in order to ascertain the correct position of the case land.
- (v) For that, the learned Court proceeded to pass an order arbitrarily basing on a false and incomplete report of the R.I. which is against the principle of law. Therefore the order passed by the learned Tahasildar need to be set aside.
- (vi) For that, the appellant reserves its right to submit further facts and law at the time of hearing.



It is therefore prayed that the Hon'ble Court be pleased to admit and after hearing to quash the impugned order passed by the Tahasildar, Jharsuguda and for which act of kindness the appellant shall ever pray.

[Signature]
Advocate for the Appellant

[Signature]
Appellant
Nabal Kishor Sharma

VERIFICATION

I, Sri Nabal Kishor Sharma, aged about 40 years, working as A.G.M (Legal) with Vedanta Aluminium Ltd., (now Vedanta Ltd) Jharsuguda and the authorized representative of the Company do hereby verify and declare that the contents are true and correct to the best of my knowledge and belief. I have signed this verification on this the day of August 2016 at AM/PM in the court campus.

[Signature]
Advocate for the Appellant

[Signature]
Appellant.
Nabal Kishor Sharma,

COPIED BY MB
[Signature]
Copist Clerk

COMPA RED BY MB
[Signature]
Comparing Clerk
12.2.12

27

ANNEXURE-4

Certified copy of Encroachment (A) case No. 58/16.
Encroachment (A) ①

OFFICE OF THE SUB COLLECTOR, JHARSUGUDA

ଅନୁ. ୩୩-୧୩୧୩ ନଂ. ୩୨୦

ମିଳିତ ଶିରୋନାମା ପୃଷ୍ଠା ଓ ନଥି ପତ୍ର

(COMBINED TITLE PAGE & FLY LEAF)

ଓଡ଼ିଶା ଅଭିଲେଖ ପ୍ରକରଣ ପୁସ୍ତକ, 1964 ର ପାଠ 282(5) ଦ୍ୱାରା

ପ୍ରଥମ ପୃଷ୍ଠା
 ଉପର ଭାଗ ବିଭାଗ/ବାଣୀ/ ରପବିଭାଗ
 ଦେଖିବାର ସଂଖ୍ୟା ର ବର୍ଷର ନାମର ସଂ
 ଗ୍ରାମର ନାମ ଅନୁର ନାମ ଶାରସୁଗୁଡ଼ା ସଂଖ୍ୟା **Ench(A)**
 ବସ୍ତୁର ନାମ ଶାରସୁଗୁଡ଼ା ନଂ. **58/16**
 ଅବେଦନକାରୀ **Vedante Allynore Ltd.** ଅପର ପକ୍ଷ **State of Orissa**
 ବର୍ଷ ଅଧିକାରୀଙ୍କ ଅନୁପାଦ୍ୟ
 ନିକ୍ଷେପ ତାରିଖ ଅଭିଲେଖକମ୍ଭ (Record Room) ରେ ପ୍ରାପ୍ତି ତାରିଖ

କ୍ରମିକ ନଂ	ବିବରଣ	ପୃଷ୍ଠା ସଂଖ୍ୟା	ପୃଷ୍ଠା ତାରିଖ	ମୂଲ୍ୟ	ପ୍ରାପ୍ତ ତାରିଖ
1	2	3	4	5	6
01.	Order sheets	05	Pages		24/01/16
02.	General sheets	32	Pages		23/01/16
	Total	37	Pages		24/01/16
	Along with Tribunal order LEA No 04/16 pages - 12 pages				07/01/16 04/02/12 04/03/12



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L. C. R. Jaggal (2)

Schedule-I, III Form No. 30

ORDER SHEET

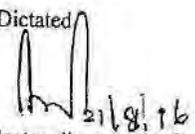
(See Paragraph 207 (1) of the O.R.M. 1964)

Order Sheet dated from..... to.....

Tahasil: _____ P.S. - JHARSUGUDA Vill.....

Sub-Division/Dist- J H A R S U G U D A Case No- 58 /2016

Nature of the Case **ENCROACHMENT APPEAL CASE No-**

Sl No & Date of Order ଅନୁକ୍ରମ ସଂଖ୍ୟା ଓ ତାରିଖ	Order ଅନୁକ୍ରମିତ ଆଦେଶ ଓ ସ୍ୱରୂପ	Date of Action taken on order with date ଆଦେଶରେ କାର୍ଯ୍ୟକାରୀତା କାର୍ଯ୍ୟକାରୀତା ତାରିଖ
1	2	3
01-08-2016	<p>The Encroachment Appeal filed by the Appellant Vedanta Aluminium Ltd. At/PS/Dist- Jharsuguda through his Advocate Sri L.N. Guru & Associates against the order Dtd. 17.06.2016 passed by Tahasildar, Jharsuguda in Encroachment Case No-04/2016 along with V'nama. V' Nama is accepted. He has filed certified copy of order dt. 17.06.2016 passed by Tahasildar, Jharsuguda. Further, he has filed a petition U/s 5 of Limitation Act. Also he has filed a stay petition to stay further proceeding in Ench. Case No. 157/2014 on behalf of Vedanta Aluminium Ltd PS/Dist-Jharsuguda.</p> <p>Put up on 04/08/2016.</p> <p style="text-align: right;">Dictated  Sub-Collector, Jharsuguda</p> <p style="text-align: center;">Heard Adv. for Appellant. Case is admitted. Call for the LCR - And also a sketch report for the case land including PWC from Tdr Jsg.</p> <p style="text-align: center;">Case is <u>22/9/16</u></p>	<p>01/09/16 22/09/16 20/11/16 24/11/16</p>

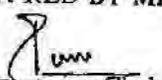


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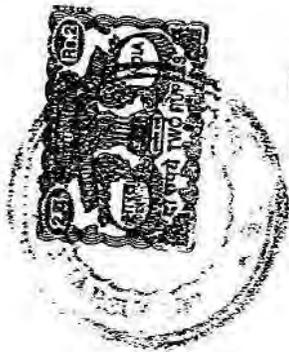
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22/9/16

Adv. for Appellant is present.
Says that they are not in
possession of case land.
LCR in EC no. 4/16 received
from Tdr. Jsg.



Remind him to submit status report
by next date.

Case to 20/11/16


22/9/16

20/11/16

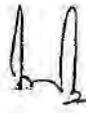
Adv. for Appellant is present.
Prays for time. Time allowed.
Also remind Tdr Jsg. to submit
status report on case land
by next date.

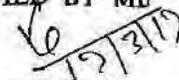
Case to 24.11.16

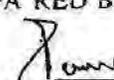

20.11.16

24/11/16

I am busy otherwise.
Case is adj to 1/12/16


24.11.16

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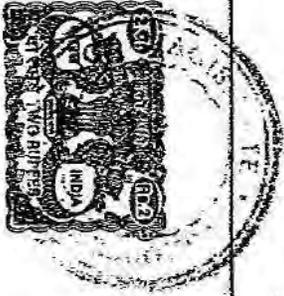
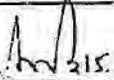
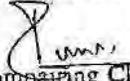
-30-

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ଫର୍ମ ନଂ. 321

[ଓଡ଼ିଶା ଅଭିଯୋଗ ପ୍ରଦାନ ପୂର୍ବକ, 1964ର ପାଠାଗ୍ରାହ 207 (1) ବୃଦ୍ଧ୍ୟ]
(CONTINUATION OF ORDER SHEET)

ଆଦେଶର କ୍ରମିକ ସଂଖ୍ୟା ଓ ତାରିଖ	ଅଧିକାରୀଙ୍କ ଆଦେଶ ଓ ସୂଚନା	ଆଦେଶରେ କରାଯାଇଥିବା ବାସ୍ତବିକତାମାନଙ୍କ ବିବରଣୀ
1	2	3
<p><u>1/12/16</u></p> 	<p>S/R no called for from Tdr. Jsg. not received. Remind him. Case to <u>15/12/16</u></p> <p> <u>1/12/16</u></p>	
<p><u>15/12/16</u></p>	<p>Adv. G. P. Rao has submitted a petition to be an inter- venor in this case on account of the fact that prime land of Govt. should be protected from land-grabbers. His plea is accepted, he is allowed to submit all necessary documents on next date. Further remind Tdr to submit a status report on Gov land. by next date. Case to <u>22/12/16</u></p> <p> <u>15.12.16</u></p>	<p>COPIED BY MI  <u>17/12/17</u> Copist Clerk</p> <p>COMPA RED BY MB  Compiling Clerk <u>17.3.17</u></p>

318

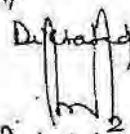
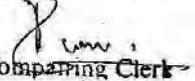
P/y

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ଫର୍ମ ନମ୍ବର ୩୩-ପାଠ୍ୟ ସଂ. ୩୨୧

[ଓଡ଼ିଶା ଅଧିକାର ପ୍ରଦାନ ପ୍ରକାଶ, ୧୯୬୪ର ଯାଚାପାତ୍ର ୨୦୭ (୧) ଦ୍ୱାରା]

(CONTINUATION OF ORDER SHEET)

ଆଦେଶର ପ୍ରମୁଖ ବାକ୍ୟ ଓ ଖବର	ଅଧିକାରୀଙ୍କ ଆଦେଶ ଓ ପ୍ରଶ୍ନ	ଆଦେଶରେ ବ୍ୟବହୃତ କାର୍ଯ୍ୟାଳୟର ନିୟମ
1	2	3
<p><u>Let's see</u></p> 	<p>A dv. for Appellant is present, and finds a petitioner that Sr. PRM Rao should not be made a party to this case. Since he has already been allowed by the Court to submit all nec. documents on next date, his plea can't be reconsidered. However the Appellant's petition would be heard on next date on its merit if any.</p> <p>Case to <u>22/12/16</u></p> <p> 15.12.16</p> <p>C.R. taken up today. Status report not recd from Tm JSG. Remd tm.</p> <p>Case to <u>07/01/17</u></p> <p> Sub-Collector 22/12/16</p>	<p>COPIED BY ME  15/12/16 Copist Clerk</p> <p>COMPA RED BY ME  Comparing Clerk 17.2.12</p>

22/12/16

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IN THE HIGH COURT OF ORISSA : C U T T A C K

MISC. CASE NO. _____ OF 2017

(Arising out of W.P.(C) No. _____ of 2017)

In the matter of :

An application for stay and appropriate order under Chapter-VI, Rule 27(a) of the Orissa High Court Rules;

A n d

In the matter of :

Vedanta Aluminium Ltd.

... .. Petitioner.

-versus-

State of Orissa

& Another..... Opposite parties.

To

The Hon'ble Shri Justice Vineet Saran., LL.B,
the Chief Justice of Orissa High Court and His
Lordships companion justices of the said Hon'ble
Court.

O. D. S.

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The humble petition of the
above named petitioner.

MOST RESPECTFULLY SHEWETH:

1. That the petitioner herewith challenge the order dated 15.12.2016 passed by the learned Sub-Collector, Jharsuguda in Encroachment Appeal Case No.58 of 2016, wherein the Learned Sub-Collector, Jharsuguda, allowed intervention petition of a stranger at the appellate stage (who was not a party to the Encroachment Case) without considering the objection of the petitioner/appellant and without giving an opportunity of hearing to the petitioner/appellant. The same is illegal, erroneous and contrary to the settled principle of law and is also liable to be quashed.

2. That the averments made in the writ petition may form the part of this misc. case.

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3. That the petitioner has a good prima facie case to succeed and the balance of convenience lies in favour of the petitioner.
4. That it is respectfully submitted that the Learned Sub- Collector, Jharsuguda has not given any opportunity of hearing to the appellant before allowing the petition of the intending intervenor to be impleaded as party in the appeal, though the appellant has filed an objection to the said petition. The principle of Natural Justice has been violated. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and suffers from non application of mind, thus liable to be set aside.
5. That the Learned Sub- Collector, Jharsuguda has not passed a reasoned order while allowing the petition of the intending intervenor to be impleaded as party in the appeal. The Learned Sub- Collector, Jharsuguda has not assigned any reason for allowing the petition. The Learned Sub- Collector, Jharsuguda in an unspeaking order allowed the petition of the intending intervenor. Hence the order dated

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15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and suffers from non application of mind, thus liable to be set aside.

6. That in the interest of justice, equity and fair play unless the further proceeding in Encroachment Appeal Case No. 58 of 2016 pending before the learned Sub-Collector, Jharsuguda is stayed, the petitioner would suffer irreparably.

P R A Y E R

The petitioner therefore, humbly prays that your lordships would be graciously pleased to allow this application and stay the further proceeding of Encroachment Appeal Case No. 58 of 2016 pending before the learned Sub-Collector, Jharsuguda till disposal of the present Writ Application.

And pass any other or further direction/directions, order/orders, relief/reliefs which this Hon'ble Court may deem fit and proper.

And for this act of kindness, the petitioner shall as in duty bound ever pray.

Cuttack

By the petitioner through

Date: 20.03.2017.

Advocate



55

AFFIDAVIT

I, Nabal Kishor Sharma, aged about 41 years, son of
Amar Chand Sharma, At/P.O/District- Jahrsuguda
do hereby solemnly affirm and state as follows ;

1. That I am the petitioner in the instant case.
2. That the facts stated above are all true to the best
of my knowledge and belief.

Identified by:

Advocate's clerk

Nabal Kishor Sharma
Deponent

Certificate

Certified that due to non-availability of cartridge
paper this petition has been typed in thick white
papers.

Cuttack

Date: 20.03.2017.


Advocate

for the petitioner

Mr. Prasad K. Nayak
 9477172655

ole

IN THE HIGH COURT OF ORISSA: CUTTACK.

W.P.(C) NO. 4919 OF 2017

CODE NO: 289900

Vedanta Aluminium Ltd. Petitioner.

-versus-

State of Orissa & Another..... Opposite parties.

I N D E X

Sl.No.	Description of documents	Pages
01.	Writ Petition	1 to 19
02.	<u>Annexure-1.</u> Copy of the Appeal Memo	20 - 22
03.	<u>Annexure-2.</u> Copy of the Petition.	23 - 24
04.	<u>Annexure-3.</u> Copy of the Objection	25 - 26
05.	<u>Annexure-4.</u> Copy of the order dated 15.12.2016.	27 - 31
06.	Vakalatnama	

Cuttack

Advocate

[Signature]

Date: 20.03.2017

for the Petitioner

IN THE HIGH COURT OF ORISSA: CUTTACK.

(ORIGINAL JURISDICTION CASES)

W.P.(C) NO. _____ OF 2017

CODE NO: 289900

In the matter of : An application under Article
226 and 227 of the Constitution
of India.

A N D

In the matter of :

Relating to challenging the order
dated 15.12.2016 passed by the
learned Sub-Collector,
Jharsuguda in Encroachment
Appeal Case No.58 of 2016,
wherein allowed the
intervention petition of a
stranger at the appellate stage
(who was not a party to the
Encroachment Case) without
considering the objection of the
petitioner/appellant and
without giving an opportunity of
hearing to the
petitioner/appellant.

A N D

In the matter of :

Vedanta Aluminium Ltd.
Jharsuguda, represented
through its A.G.M (Legal), Nabal
Kishor Sharma, aged about 41
years, son of Amar Chand
Sharma, At/P.O/District-
Jharsuguda. ... Petitioner.
(Appellant In Court Below)

-versus-

1. State Of Orissa
Represented by rough
Tahsildar,
At/P.O/Dist: Jharsuguda.
(Respondent in Court Below)

2. P. Ram Mohan Rao,
Advocate, At/P.O/District-
Jharsuguda.
(Intending Intervenor in Court
Below)

..... Opposite parties.

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The matter out of which the writ application arises was never before this Hon'ble Court in any manner whatsoever.

To

The Hon'ble Shri Justice Vineet Saran.,
LL.B., the Chief Justice of Orissa High Court and His
Lordships companion justices of the said Hon'ble
Court.

The humble petition of the
above named petitioner.

MOST RESPECTFULLY SHEWETH:

1. That the petitioner herewith challenge the order dated 15.12.2016 passed by the learned Sub-Collector, Jharsuguda in Encroachment Appeal Case No.58 of 2016, wherein the Learned Sub- Collector,

[Handwritten signature]

Jharsuguda, allowed intervention petition of a stranger at the appellate stage (who was not a party to the Encroachment Case) without considering the objection of the petitioner/appellant and without giving an opportunity of hearing to the petitioner/appellant. The same is illegal, erroneous and contrary to the settled principle of law and is also liable to be quashed.

2. That the petitioners are the citizens of India and reside within the territorial jurisdiction of this Hon'ble Court and the cause of action arises within the said territorial jurisdiction.

3. That the brief fact of the case is like that the petitioner serviced with notice under OPLE Act to show cause as to why action as provided under section 4,7, and 8 of the Act shall not be taken against for un authorized occupation of Govt. Land in Encroachment Case No.4 of 2016. The petitioner filed the show cause on denying the liability of encroachment. The Learned Tahasildar without

[Handwritten signature]

considering the show cause passed the order under section 6 of the OPLE Act, 1972 to vacate the land within 30 days from the date of the receipt of the notice or else they will be evicted from the case land as per law.

4. That it is respectfully submitted that the petitioner challenged the order of Learned Tahasildar, Jharsuguda by filing Encroachment Appeal Case No. 58 of 2016 before the Learned Sub-Collector, Jharsuguda. The petitioner averred therein that the impugned order suffers from serious irregularities and the petitioner /appellant has neither been heard nor given a chance of adducing evidence which is sheer violation of principle of Natural Justice. The petitioner/appellant further averred therein that the appellant has never encroached the case land nor in physical possession of the case land pertaining to M.S. No.55 of village Banjari. There is no existence of the Factory or its ancillary of the company in the case land. The copy of the Appeal Memo is annexed herewith as **Annexure-1.**

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5. That it is respectfully submitted that the Opp. Party No.2 filed a petition for intending to be intervenor in the Encroachment Appeal Case No.58 of 2016. The Opp. Party no.2 prayed therein that he may be allowed to implead as a necessary party. The copy of the petition is annexed herewith as **ANNEXURE-2.**

6. That petitioner / appellant filed an objection to the petition of intending intervenor on 15.12.2016. The appellant averred therein that the petition filed by the intending intervenor is not maintainable in law as well as facts of the case. The intending intervenor is never a necessary party to the proceeding. He has got no direct interest/nexus in the subject matter of the litigation. He was never a party in this proceeding before the lower court nor has been heard. The appellant further averred therein that that a plaintiff (Here Govt. of Odisha) i.e. he cannot be forced to add a party against whom he does not want to fight unless it is compulsion or Rule of Law. The Appellate Court has to see whether

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the intending intervenor has got any direct interest or personal relief in the subject matter of litigation and also to see whether the intending intervenor is aggrieved by the order or is prejudicially affected by the order. Under Rule 12 of OPLE Rules a third party other than the encroachers may be heard if he puts his claim to the property in question. But in this case the intending intervenor has no claim over the land, as such he cannot be heard in the appeal as a party. The intending intervenor has maliciously challenge the order of Learned Appellate court, where the Ld. Court has called for the present status report of the land from the Tahasildar i.e. for just proper adjudication of the appeal. The appellant has never suppressed any material from the court as alleged by intending intervenor. Further the intending intervenor in his application as maliciously blamed both the appellant and respondent (Govt.) on allegation of misleading the Court without any cause or substance. The intending intervenor while dressed himself as an activist against corruption has only filed many petitions against the appellant but not

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any other public or litigants. This proves the intending intervenor's illicit intention and ulterior motive against the appellant. The appellant prayed for dismissal of the petition filed by the intending intervenor to make him a party in the encroachment appeal. The copy of the Objection is annexed herewith as **ANNEXURE-3**.

7. That on 15.12.2016, the learned Sub-Collector, Jharsuguda, allowed the petition of the intending intervenor and allowed him to submit all necessary documents on next date. The learned Sub-Collector, Jharsuguda, without considering the objection of the of the appellant/petitioner has passed the order. When the same was raised by the advocate for the appellant, learned Sub-Collector, Jharsuguda, passed the order that he has already been allowed by the Court to submit all necessary documents on the next date, this plea cannot be re-considered. The Copy of the order dated 15.12.2016 is annexed herewith as **Annexure-4**.

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That being aggrieved by the order dated 15.12.2016 passed by the Learned Sub-Collector, Jharsuguda in Encroachment appeal Case No. 58 of 2016, the petitioner challenge the same on following grounds amongst others.

GROUNDS

A) For that the order dated 15.12.2016 passed by the Learned Sub-Collector, Jharsuguda allowing the petition filed by the intending intervenor to be implead as a party in the Encroachment Appeal Case No. 58 of 2016 is bad, total non application of mind thus liable to be set aside.

B) For that the Learned Sub-Collector, Jharsuguda failed to consider the fact the intending intervenor was not a party before the Learned Court below nor has been heard. He is not a proper or necessary party to the proceeding. He has got no

direct interest/ nexus in the subject matter of the litigation. The intending intervenor is no way affected nor prejudiced. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is bad, illegal, arbitrary and total non application of judicial mind thus liable to be set aside.

C) For that the Learned Sub- Collector, Jharsuguda failed to consider the fact that before directing a person to be impleaded as a party the Court has to be prima facie satisfied about the bonafides of the intending intervenor in the case. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is bad, illegal, arbitrary and total non application of judicial mind thus liable to be set aside.

D) For that the Learned Sub- Collector, Jharsuguda failed to consider the fact that the cardinal principle of law is that a plaintiff (Here Govt. of Odisha) i.e. he cannot be forced to add a party against whom he does not want to fight unless it is

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compulsion or Rule of Law. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is bad, illegal, arbitrary and total non application of judicial mind thus liable to be set aside.

E) For that the Learned Sub- Collector, Jharsuguda failed to consider the fact that the Appellate Court has to see whether the intending intervenor has got any direct interest or personal relief in the subject matter of litigation and also to see whether the intending intervenor is aggrieved by the order or is prejudicially affected by the order. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is bad, illegal, arbitrary and total non application of judicial mind thus liable to be set aside.

✓
F) For that the Learned Sub- Collector, Jharsuguda failed to consider the fact that Under Rule 12 of OPLE Rules a third party other than the encroachers may be heard if he puts his claim to the property in question. But in this case the intending intervenor has no claim over the land, as such he

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cannot be heard in the appeal as a party. Hence the order dated 15.12.2016 passed by the Learned Sub-Collector is bad, illegal, arbitrary and total non application of judicial mind thus liable to be set aside.

✓ G) For that the Learned Sub-Collector, Jharsuguda failed to consider the fact that Under Rule 12 of OPLE Rules a third party other than the encroachers may be heard if he puts his claim to the property in question within 30 days before the Tahasildar. But in this case the intending intervenor has no claim over the land, as such he cannot be heard in the appeal as a party. The Intending Intervenor has maliciously filed the petition with an ulterior motive. Hence the order dated 15.12.2016 passed by the Learned Sub-Collector is bad, illegal, arbitrary and total non application of judicial mind thus liable to be set aside.

H) For that the Learned Sub-Collector, Jharsuguda failed to consider the fact that the

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intending intervenor in his application as maliciously blamed both the appellant and respondent (Govt.) on allegation of misleading the Court without any cause or substance. Nor has filed any documents in respect of the same. Hence allowing the petition of intending intervenor to be impleaded as party in the appeal is illegal, arbitrary and bad in law thus liable to be set aside.

I) For that the Learned Sub-Collector, Jharsuguda failed to consider the fact that presence of the intending Intervenor is neither necessary for decision of the question involved in these proceeding nor his presence necessary to enable the Court effectually and completely adjudicate upon and settle questions involved in the appeal. He is neither necessary nor proper party. Hence allowing the petition of intending intervenor to be impleaded as party in the appeal is illegal, arbitrary and bad in law thus liable to be set aside.

[Handwritten signature]

J) For that the Learned Sub- Collector, Jharsuguda has not given any opportunity of hearing to the appellant before allowing the petition of the intending intervenor to be impleaded as party in the appeal, though the appellant has filed an objection to the said petition. The principle of Natural Justice has been violated. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and suffers from non application of mind, thus liable to be set aside.

K) For that the Learned Sub- Collector, Jharsuguda has not passed a reasoned order while allowing the petition of the intending intervenor to be impleaded as party in the appeal. The Learned Sub- Collector, Jharsuguda has not assigned any reason for allowing the petition. The Learned Sub- Collector, Jharsuguda in an un speaking order allowed the petition of the intending intervenor. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and suffers from non application of mind, thus liable to be set aside.

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AAH

L) For that the Learned Sub- Collector, Jharsuguda has acted beyond jurisdiction, as the Statute has not empowered the Learned Sub- Collector to allow intervenor at an Appellate stage. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and without jurisdiction, thus liable to be set aside.

M) For that the Learned Sub- Collector, Jharsuguda by passed the objection filed by the petitioner/appellant, while passed the impugned order. The Learned Sub- Collector, Jharsuguda with an malafide intention passed the impugned order showing as 'Later On' and stated therein that since he has already been allowed to submit all necessary documents on the next date, the plea of the petitioner/ appellant (Opp. Party No.2 should not be made party to this case) cannot be reconsidered. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and clear non application of mind, thus liable to be set aside.

OA
15.12.2016

✓ N) For that the Learned Sub- Collector, Jharsuguda failed to consider the fact that the intending intervenor has filed the petition without affidavit, there is no address statement and cause title. Hence the petition filed by the intending intervenor is nonest in the eye of law and consideration of the same by the Learned Sub-Collector, Jharsuguda is total non application of mind. Thus the order dated 15.12.2016 allowing the petition of intending intervenor to be impleaded as party in the appeal is liable to be quashed.

O) For that impugned order has been passed by the Learned Sub- Collector, Jharsuguda without giving an opportunity of hearing to the appellant/petitioner and without considering the objection. The petitioner is highly prejudiced by such action of the Learned Sub- Collector, Jharsuguda.

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P) For that the State of Orissa has instituted the Encroachment proceeding against the petitioner and the order of the Tahsildar was challenged in the Appeal before the Sub-Collector. The third party who is no way concerned in this case/issue has been added as party/intervenor. The third party has no locus to file such intervention petition during the appellate stage. The Sub-Collector, Jharsuguda has no jurisdiction to entertain such intervention petition. The Sub-Collector has passed the impugned order under annexure-4 exercising the power as writ court. Hence the impugned order is arbitrary and without jurisdiction and the same is liable to be quashed.

8. That for the interest of justice, equity and fair play, the petitioner finding no other alternative remedy invokes this extra ordinary jurisdiction under Article 226 of the Constitution of India approached this Hon'ble Court for appropriate relief.

[Handwritten signature]

P R A Y E R

Under these circumstances, the petitioner most humbly prays that the Hon'ble Court may be graciously pleased to issue the RULE NISI calling upon the opposite parties to show cause as to why :-

- (i) The impugned order dated 15.12.2016 passed by the Learned Sub- Collector, Jharsuguda in Encroachment Appeal Case No.58 of 2016, under Annexure-4 shall not be quashed.
- (ii) The action of the Learned Sub- Collector, Jharsuguda shall not be declared as illegal and arbitrary.

And pass any other or further direction/directions, order/orders, relief/reliefs which this Hon'ble Court may deem fit and proper.



And for this act of kindness, the petitioner shall
as in duty bound ever pray.

Cuttack

By the petitioner through

Date: 20.05.2017

Advocate



AFFIDAVIT

I, Nabal Kishor Sharma, aged about 41 years, son of
Amar Chand Sharma, At/P.O/District- Jahrsuguda
do hereby solemnly affirm and state as follows ;

1. That I am the petitioner in the instant case.
2. That the facts stated above are all true to the best
of my knowledge and belief.

Identified by:

Advocate's clerk

Nabal Kishor Sharma
Deponent

Certificate

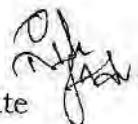
Certified that due to non-availability of cartridge
paper this petition has been typed in thick white
papers.

Cuttack

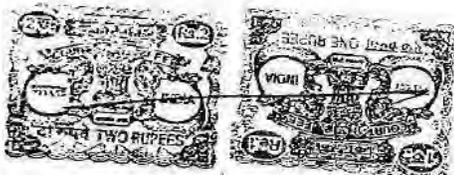
Advocate

Date: 20.05.2017

for the petitioner



ANNEXURE-1



Handwritten signature and the number 8 in a circle.

Bl, New
to 4/8/16
for her/his own
admission
Handwritten signature and date 1/8/16.

IN THE COURT OF SUB-COLLECTOR, JHARSUGUDA

ENCH. APPEAL NO. 58 OF 2016

Vedanta Aluminium Ltd. Appellant

-vrs-

State of Orissa Respondent



APPEAL U/S 12 OF O.P.L.E. ACT

Deleg. Collector

Most respectfully the appellant begs to state as follows :-

1. Case admitted

2. Call for LRA

3. GH for a
stake report
from
Tdr

1. That, the appellant was serviced with a notice under the O.P.L.E. Act to show cause as to why action as provided U/S, 4, 7 & 8 of the said Act shall not be taken against for un-authorized occupation of Govt land as reported by Revenue Inspector, Jharsuguda on 17.02.2016 in Encroachment Case No.4 of 2016.

Handwritten signature and date 4-8-16.

2. That, the appellant on the date fixed i.e. on 29.04.2016 filed a petition denying liability of encroachment after that the Respondent sought for detail report from the RI.

Handwritten signature.

3. That, the Revenue Inspector submitted the same report and the respondent passes order to issue notice U/S 6 (1) of the O.P.L.E. Act 1972 in Form No.B to vacate the land within 30 days from the date of receipt of this notice or else they will be evicted from the case land as per law.

Handwritten signature and date 17/2/17.

Being aggrieved by the order of learned Tahasildar, Jharsuguda, the appellant prefers this appeal before your Honour on the grounds amongst others.

(i) For that the impugned order suffer from serious irregularities and legal formalities. As a matter of fact the appellant has neither been heard nor given a chance of adducing evidence which is sheer

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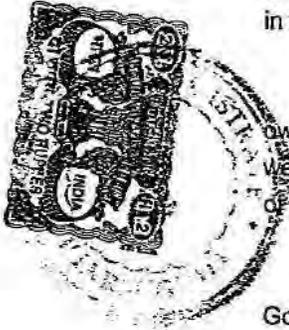
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2.

violation of principle of natural justice and equity and also prejudicial. Moreover there are many legal infirmities crept in the order .

- (ii) For that the learned Tahasildar should have believed that appellant has never encroached the case land nor in physical possession of the case land pertaining to M.S Khata No.55 of village Banjari. There is no existence of the factory or its ancillary of the company in the case land.



The case land is still a Village forest Kisam land and the ownership of the said land still lies in the revenue records. There were few shrubs, tree growth on the said having no any construction of the factory by the appellant till date.

Be it mentioned here that only in order to supply electricity to Govt, few high-tension electric towers have been passing through the said area at height of 30 to 40 meters from ground level without affecting the tree growth therein and cannot be construed as possession or encroachment of the case land. Further, there is no interference in the use of the land by the villagers and nature of said land remains intact.

- (iii) For that, the aforesaid facts could have been properly ascertained by way of a field enquiry / inspection by the Tahasildar, Jharsuguda in presence of all concerned and the appellant. It could have also been ascertained through legal evidences, which the appellant was deprived of and given no chance of hearing. The report of R.I is nothing but a table disposal. Had the Revenue Inspector would have properly enquired into the matter, he could have marked that in order to keep security and safety of animals / public at large, it has been temporarily fenced in a proper manner just to help the tree growth and safety and security of all.

There never exists any factory or its ancillary of the appellant's company in the case land at any point of time even till date.

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[Signature]
17/3/12
Cotspaining Clerk

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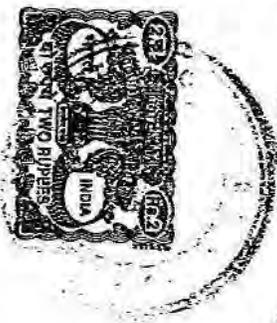
[Signature]
17.3.12
Cotspaining Clerk

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- (iv) For that, a detailed survey should have been initiated with the assistance of R.I. in order to ascertain the correct position of the case land.
- (v) For that, the learned Court proceeded to pass an order arbitrarily basing on a false and incomplete report of the R.I. which is against the principle of law. Therefore the order passed by the learned Tahasildar need to be set aside.
- (vi) For that, the appellant reserves its right to submit further facts and law at the time of hearing.



It is therefore prayed that the Hon'ble Court be pleased to admit and after hearing to quash the impugned order passed by the Tahasildar, Jharsuguda and for which act of kindness the appellant shall ever pray.

[Signature]
Advocate for the Appellant

[Signature]
Appellant
Nabal Kishor Sharma

VERIFICATION

I, Sri Nabal Kishor Sharma, aged about 40 years, working as A.G.M (Legal) with Vedanta Aluminium Ltd., (now Vedanta Ltd) Jharsuguda and the authorized representative of the Company do hereby verify and declare that the contents are true and correct to the best of my knowledge and belief. I have signed this verification on this the day of August 2016 at AM/PM in the court campus.

[Signature]
Advocate for the Appellant

[Signature]
Appellant.
Nabal Kishor Sharma,

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ANNEXURE-3

15.12.16

22
19IN THE COURT OF SUB-COLLECTOR, JHARSUGUDA

Ench. Appeal Case No.58/2016

Vedanta Aluminium Ltd.,

.....Appellant

-Vrs-

State of Odisha through Tahasildar, Jharsuguda Respondent.



In the above appeal the appellant beg to file his objection to the petition of intending intervener Sri P.R. Rao, Advocate as follows:-

1. That, the petition filed by the intending intervener is not maintainable in law as well as facts of the case and he has got no locus-standi to file the same.
2. That, the petitioner is never a **necessary party** to the proceeding. He has got no direct interest/nexus in the subject matter of the litigation, nor he has prayed for any relief.

As a matter of facts a persons is only deemed to be a necessary party in whose absence no effective order can be passed by a court. Moreover ~~you are~~ ^{he was} never a party in this proceeding before the lower court nor has been heard.

3. That, before directing a person to be impleaded as a party the court has to be **prima-facie** satisfied about the bonafides of the applicant in the case.

Further, It is cardinal principle of law that a plaintiff (here Govt. of Odisha) is the "**DOMINUS-LITUS**" i.e. he cannot be forced to add a party against whome he does not want to fight unless it is compulsion or Rule of Law.

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16.12.16

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4. That, this appellate court has to see whether the petitioner has got any direct interest or personal relief in the subject matter of litigation and also to see whether the petitioner is aggrieved by the order or is otherwise prejudicially affected by the order.
5. That, under Rule 12 of OPLE Act a third party other than the encroachers may be heard if he puts his claim to the property in question. But in this case the intending intervener ^{has} no claim over the land, as such he cannot be heard in the appeal as a party.
6. That, intending intervener has maliciously challenge the order of this Hon'ble Court [which has asked present status report of the land from the Tahasildar] i.e. for just proper adjudication of the appeal. The appellant has never suppressed any material from the court as alleged by him. Further the petitioner in his application as maliciously blamed both the appellant and respondent (Govt.) on allegation of misleading the court without any ^{cause} cost or substance.
7. That, as avered in Para-3 of the petition, why the intending intervener ^{whole} dressed himself as an ~~and~~ activists has only filed many petition against this appellant's alleged encroachment but not of any other public or litigents. This proves his illicit intention and ulterior motive against this appellant all times.

Under the above circumstances the petition of the intending intervener to make him a party deserves to be dismissed.

bm / 14.12.16
Advocate for the appellant

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L. C. R. Jaggal (2)

Schedule-I, III Form No. 20

ORDER SHEET

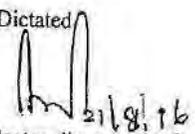
(See Paragraph 207 (1) of the O.R.M. 1964)

Order Sheet dated from..... to.....

Tahasil: _____ P.S. JHARSUGUDA Vill.....

Sub-Division/Dist- J H A R S U G U D A Case No- 58 /2016

Nature of the Case **ENCROACHMENT APPEAL CASE No-**

Sl No & Date of Order ଅନୁକ୍ରମ ସଂଖ୍ୟା ଓ ତାରିଖ	Order ଅନୁକ୍ରମିତ ଆଦେଶ ଓ ସ୍ୱରୂପ	Date of Action taken on order with date ଆଦେଶରେ କାର୍ଯ୍ୟକାରୀତା ସମ୍ପାଦନା ତାରିଖ
1	2	3
01-08-2016	<p>The Encroachment Appeal filed by the Appellant Vedanta Aluminium Ltd. At/PS/Dist- Jharsuguda through his Advocate Sri L.N. Guru & Associates against the order Dtd. 17.06.2016 passed by Tahasildar, Jharsuguda in Encroachment Case No-04/2016 along with V'nama. V' Nama is accepted. He has filed certified copy of order dt. 17.06.2016 passed by Tahasildar, Jharsuguda. Further, he has filed a petition U/s 5 of Limitation Act. Also he has filed a stay petition to stay further proceeding in Ench. Case No. 157/2014 on behalf of Vedanta Aluminium Ltd PS/Dist-Jharsuguda.</p> <p>Put up on 04/08/2016.</p> <p>Dictated  Sub-Collector, Jharsuguda</p> <p>Heard Adv. for Appellant. Case admitted. Call for the LCR - And also a sketch report for the case land including PWC from Tdr Jsg.</p> <p>Case to <u>22/9/16</u></p>	<p>01/09/16 22/09/16 20/11/16 24/11/16</p>

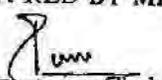


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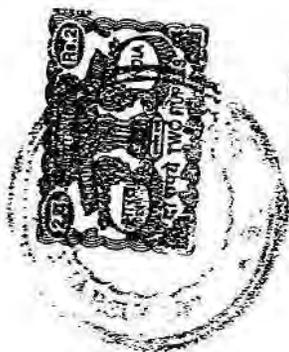
22/9/16

Adv. for Appellant is present.
Says that they are not in
possession of case land.
LCR in EC no. 4/16 received
from Tdr. Jsg.

Remind him to submit status report
by next date.

Case to 20/11/16


22/9/16



20/11/16

Adv. for Appellant is present.
Prays for time. Time allowed.
Also remind Tdr Jsg. to submit
status report on case land
by next date.

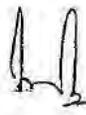
Case to 24.11.16


20.11.16

24/11/16

I am busy otherwise.

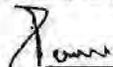
Case is adj to 1/12/16


24.11.16

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Comptroller Clerk

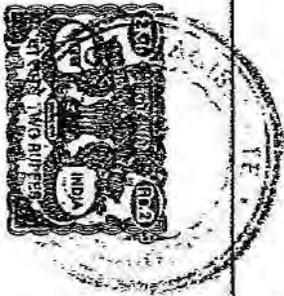
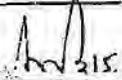
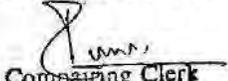
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ଫର୍ମ ନଂ. 321

[ଓଡ଼ିଶା ଅଭିଯୋଗ ପ୍ରଦାନ ପୂର୍ବକ, 1964ର ପାଠାଗ୍ରାହ 207 (1) ବୃଦ୍ଧ୍ୟ]
(CONTINUATION OF ORDER SHEET)

ଆଦେଶର କ୍ରମିକ ସଂଖ୍ୟା ଓ ତାରିଖ	ଅଧିକାରୀଙ୍କ ଆଦେଶ ଓ ପ୍ରାଣର	ଆଦେଶରେ କରାଯାଇଥିବା ବାସ୍ତବ୍ୟତାମୟ ବିବରଣୀ
1	2	3
<p><u>1/12/16</u></p> 	<p>S/R no called for from Tdr. Jsg. not received. Remind him. Case to <u>15/12/16</u></p> <p> <u>1/12/16</u></p>	
<p><u>15/12/16</u></p>	<p>Adv. G. P. Rao has submitted a petition to be an intervenor in this case on account of the fact that prime land of Govt. should be protected from land-grabbers. His plea is accepted, he is allowed to submit all necessary documents on next date. Further remind Tdr to submit a status report on Govt. land. by next date. Case to <u>22/12/16</u></p> <p> <u>15.12.16</u></p>	<p>COPIED BY MI  17/12/17 Copist Clerk</p> <p>COMPA RED BY MB  Compiling Clerk 17.3.17</p>

318

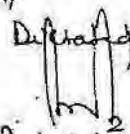
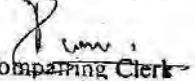
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ଫର୍ମ ନମ୍ବର 111-ପାରମ୍ପରା ନଂ. 321

[ଓଡ଼ିଶା ଅଧିକାରଣ ପ୍ରକାଶନ ପ୍ରଣାଳୀ, 1964ର ପାଠାଗାରୀୟ 207 (1) ଦ୍ୱାରା]

(CONTINUATION OF ORDER SHEET)

ଆଦେଶର ପ୍ରକାର ବା ଶ୍ରେଣୀ ଓ ଖଣ୍ଡିକ	ଅଧିକାରକର ଆଦେଶ ଓ ପ୍ରାଣ	ଆଦେଶରେ ବ୍ୟବହୃତ କାର୍ଯ୍ୟାଳୟର ନାମ
1	2	3
<p><u>Let's on</u></p> 	<p>A dv. for Appellant is present, and finds a petitioner that Sr. PRM Rao should not be made a party to this case. Since he has already been allowed by the Court to submit all nec. documents on next date, his plea can't be re-considered. However the Appellant's petition would be heard on next date on its merit if any.</p> <p>Case to <u>22/12/16</u></p> <p> 15.12.16</p> <p>C.R. taken up today. Status report not recd from Tdm JSG. Remd tm.</p> <p>Case to <u>07/01/17</u></p> <p> Sub-Collector 22/12/16</p>	<p>COPIED BY ME  15/12/16 Copist Clerk</p> <p>COMPA RED BY ME  Comparing Clerk 17.2.12</p>

22/12/16

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IN THE HIGH COURT OF ORISSA : C U T T A C K

MISC. CASE NO. _____ OF 2017

(Arising out of W.P.(C) No. _____ of 2017)

In the matter of :

An application for stay and appropriate order under Chapter-VI, Rule 27(a) of the Orissa High Court Rules;

A n d

In the matter of :

Vedanta Aluminium Ltd.

... .. Petitioner.

-versus-

State of Orissa

& Another..... Opposite parties.

To

The Hon'ble Shri Justice Vineet Saran., LL.B,
the Chief Justice of Orissa High Court and His
Lordships companion justices of the said Hon'ble
Court.



The humble petition of the
above named petitioner.

MOST RESPECTFULLY SHEWETH:

1. That the petitioner herewith challenge the order dated 15.12.2016 passed by the learned Sub-Collector, Jharsuguda in Encroachment Appeal Case No.58 of 2016, wherein the Learned Sub-Collector, Jharsuguda, allowed intervention petition of a stranger at the appellate stage (who was not a party to the Encroachment Case) without considering the objection of the petitioner/appellant and without giving an opportunity of hearing to the petitioner/appellant. The same is illegal, erroneous and contrary to the settled principle of law and is also liable to be quashed.

2. That the averments made in the writ petition may form the part of this misc. case.



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3. That the petitioner has a good prima facie case to succeed and the balance of convenience lies in favour of the petitioner.
4. That it is respectfully submitted that the Learned Sub- Collector, Jharsuguda has not given any opportunity of hearing to the appellant before allowing the petition of the intending intervenor to be impleaded as party in the appeal, though the appellant has filed an objection to the said petition. The principle of Natural Justice has been violated. Hence the order dated 15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and suffers from non application of mind, thus liable to be set aside.
5. That the Learned Sub- Collector, Jharsuguda has not passed a reasoned order while allowing the petition of the intending intervenor to be impleaded as party in the appeal. The Learned Sub- Collector, Jharsuguda has not assigned any reason for allowing the petition. The Learned Sub- Collector, Jharsuguda in an unspeaking order allowed the petition of the intending intervenor. Hence the order dated



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15.12.2016 passed by the Learned Sub- Collector is illegal, arbitrary and suffers from non application of mind, thus liable to be set aside.

6. That in the interest of justice, equity and fair play unless the further proceeding in Encroachment Appeal Case No. 58 of 2016 pending before the learned Sub-Collector, Jharsuguda is stayed, the petitioner would suffer irreparably.

P R A Y E R

The petitioner therefore, humbly prays that your lordships would be graciously pleased to allow this application and stay the further proceeding of Encroachment Appeal Case No. 58 of 2016 pending before the learned Sub-Collector, Jharsuguda till disposal of the present Writ Application.

And pass any other or further direction/directions, order/orders, relief/reliefs which this Hon'ble Court may deem fit and proper.

And for this act of kindness, the petitioner shall as in duty bound ever pray.

Cuttack

By the petitioner through

Date: 20.03.2017.

Advocate



55

AFFIDAVIT

I, Nabal Kishor Sharma, aged about 41 years, son of
Amar Chand Sharma, At/P.O/District- Jahrsuguda
do hereby solemnly affirm and state as follows ;

1. That I am the petitioner in the instant case.
2. That the facts stated above are all true to the best
of my knowledge and belief.

Identified by:

Advocate's clerk

Nabal Kishor Sharma
Deponent

Certificate

Certified that due to non-availability of cartridge
paper this petition has been typed in thick white
papers.

Cuttack

Date: 20.03.2017.


Advocate

for the petitioner

W.P.(C) NO.4919 OF 2017
27.3.2017

Heard learned counsel for the petitioner.
Issue notice on the question of admission.
Let an extra copy of the brief be served on the learned counsel for the State appearing for the O.P.1.
Notice be issued to O.P.2 by Speed Post with A.D. fixing a short returnable date. Requisites be filed by 29.3.2017.
Place this matter after service of notice.

Biswanath Rath, J.

MISC. CASE NO.4301 OF 2017
27.3.2017

Issue notice as above. Accept one set of process fee.
As an interim measure, it is directed that there shall be stay of further proceedings in Encroachment Appeal Case No.58 of 2016 pending before the Sub-Collector, Jharsuguda till next listing.
Issue urgent certified copy.

Biswanath Rath, J.

High Court of Orissa

[Back](#)

High Court of Orissa Case Details

Case Type	: WP(C)		
Filing Number	: 4919/2017	Filing Date:	20-03-2017
Registration Number	: 4919/2017	Registration Date:	20-03-2017
CNR Number	: ODHC01-024636-2017		

Case Status

First Hearing Date	: 27th March 2017
Next Hearing Date	: 27th March 2017
Stage of Case	: FRESH ADMISSION
Coram	: 1030MR. JUSTICE BISWANATH RATH
Bench	: Single Bench
State	: ORISSA
District	: Jharsuguda
Judicial	: Civil Section
Not Before Me	:

Petitioner and Advocate

1) VEDANTA ALUMINIUM LTD. Advocate- M/S.PRASHANTA KU.NAYAK,A.K.MOHAPATRA,A.K.MOHAPATRA S.MISHRA,A.K.MOHAPATRA
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Respondent and Advocate

1) STATE OF ORISSA
2) P.RAM MOHAN RAO

IA Details

IA Number	Party	Date of Filing	Next Date	IA Status
IA/4301/2017 (4301/2017) Classification :	VEDANTA ALUMINIUM LTD. STATE OF ORISSA	20-03-2017	--	Pending

History of Case Hearing

Cause List Type	Judge	Business On Date	Hearing Date	Purpose of hearing
	MR. JUSTICE BISWANATH RATH		27-03-2017	FRESH ADMISSION
	MR. JUSTICE BISWANATH RATH		27-03-2017	FRESH ADMISSION
	MR. JUSTICE BISWANATH RATH		27-03-2017	FRESH ADMISSION

Orders

Order Number	Order on	Judge	Order Date	Order Details
1	WP(C)/4919/2017	MR. JUSTICE BISWANATH RATH	27-03-2017	View
2	WP(C)/4919/2017		30-03-2017	View

Category Details

Category	ORDINARY CIVIL MATTER (28)
Sub Category	(99)

Document Details

Sr. No.	Document No.	Date of Receiving	Filed by	Name of Advocate	Document Filed
1	9700	21-03-2017	M/S.PRASHANTA KU.NAYAK		

2	9699	21-03-2017	M/S.PRASHANTA KU.NAYAK		
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[Back](#)

Completed copy of final order passed by the Sub-Collector, Jharsuguda on 06.09.2017 in Ench. Appeal Case No 03/2014 under Order dt 1.7.2017.

[ଓଡ଼ିଶା ଅଭିଲେଖ ପ୍ରକରଣ ପ୍ରସ୍ତୁତ, 1964 ର ପାଠାଗ୍ରାହ 207(1) ପ୍ରସ୍ତୁତ]

(CONTINUATION OF ORDER SHEET)

ଆଦେଶ କ୍ରମିକ ସଂଖ୍ୟା ଓ ତାରିଖ	Order ଅଧିକାରୀଙ୍କ ଆଦେଶ ଓ ସ୍ୱାକ୍ଷର	ଆଦେଶରେ ଲଗାଯାଇଥିବା କାର୍ଯ୍ୟକ୍ରମର ବିବରଣୀ																																
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06-09-2017	<p style="text-align: center;">IN THE COURT OF THE SUB-COLLECTOR, JHARSUGUDA Encroachment Appeal Case No- 03/2014</p> <p>Vedanta alumina Ltd., Jharsuguda Appellant Vs State of Odisha Respondent</p> <p>This Ench. Appeal has been filed by Dr. Rajeev Nayan S/o- Late Dinanath Rai on behalf of Vedanta alumina Ltd., Bhurkamunda, u/s 12 of OPLE Act 1972. The contention of the Appellant is that he was served with a notice to Show Cause why action will not be taken U/s-4,6, 7 & 8 for unauthorized occupation of Govt. Land as scheduled below.</p> <p style="text-align: center;">LAND SCHEDULE</p> <table border="1" data-bbox="373 1384 1234 1680"> <thead> <tr> <th>Mouza/Village</th> <th>Khata No</th> <th>Plot No</th> <th>Area</th> <th>Kisam</th> </tr> </thead> <tbody> <tr> <td rowspan="8">Bhurkamunda</td> <td rowspan="8">108</td> <td>180</td> <td>Ac. 15.110</td> <td>Gramya Jungle</td> </tr> <tr> <td>188</td> <td>Ac. 48.680</td> <td>-do-</td> </tr> <tr> <td>520</td> <td>Ac. 16.480</td> <td>-do-</td> </tr> <tr> <td>522</td> <td>Ac. 0.720</td> <td>-do-</td> </tr> <tr> <td>524</td> <td>Ac. 0.830</td> <td>-do-</td> </tr> <tr> <td>525</td> <td>Ac. 12.150</td> <td>-do-</td> </tr> <tr> <td>512</td> <td>Ac. 14.320</td> <td>-do-</td> </tr> <tr> <td>TOTAL</td> <td></td> <td>Ac. 108.290</td> <td></td> </tr> </tbody> </table> <p>The Appellant on 23.04.2013 submitted a petition denying his liability on Encroachment of any Govt. Land. A fresh report was called for from the RI by the Tahasildar. On 02.09.2013 the RI submitted his report and 03.09.2013 the Tahasildar issued a notice U/s- 6 (1) of OPLE Act in form No-B to vacate the land within 30 days or face action as per law. The Appellant submits that the lower court has passed an arbitrary order without verifying the details and hence the order dtd. 03.09.2013 of Tahasildar, Jharsugda in E.C. No-158/13 should be set aside. Further as per the prayer made by the Appellant this court granted an interim stay on Tahasildar's order dtd. 03.09.2013 in E.C. No-158/13.</p>	Mouza/Village	Khata No	Plot No	Area	Kisam	Bhurkamunda	108	180	Ac. 15.110	Gramya Jungle	188	Ac. 48.680	-do-	520	Ac. 16.480	-do-	522	Ac. 0.720	-do-	524	Ac. 0.830	-do-	525	Ac. 12.150	-do-	512	Ac. 14.320	-do-	TOTAL		Ac. 108.290		
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[ଓଡ଼ିଶା ଅଭିଲେଖ ପ୍ରକରଣ ପୁସ୍ତକ, 1964 ର ପାରାଗ୍ରାଫ 207(1) ଦ୍ରଷ୍ଟବ୍ୟ]

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	<p>Perused the attested copy of the LCR in E.C. No-158/13 submitted by the Tahasildar, Jharsuguda. It is seen that this case was instituted on 04.04.2013 on the basis of the report submitted by RI, Jharsuguda in Form-"G" regarding encroachment of an area of Ac. 108.290 dec of Khata No-108 (Rakhita) of Mouza- Bhurkamunda by the Appellant Vedanta Aluminum Company Ltd.. On 08.04.2015 the Tahasildar was asked to submit a status report on the case land. The Tahsildar, Jharsuguda vide his letter No-1389/dtd. 27.04.2015 has submitted the status report on the case land where in it is mentioned that all the plots except plot No-188 as mentioned in the above land schedule are found outside the Vedanta Plant Boundary and Ash Pond. Plot No-188 involving an area of Ac. 48.680 is found surrounded by the Ash pond of Vedanta. This Plot has been filled with Ash upto approximate height of 25 mts. During the field visit it is found that the Company has taken up earth capping on plot No-188 and have taken up plantation work on the same. Plot Nos 180, 520, 522, 524, 525, & 512 are on the North -Eastern side of Bhurkamunda Ash pond and is out side the company area. The joint verification report has been signed by Revenue Supervisor, Jharsuguda, Tahasildar, Jharsuguda and ACF, Jharsuguda and the enquiry on 27.04.2015. On the basis of the joint enquiry report the appellate court vacated the stay orders given on 04.03.2014 and Tahasildar was directed to take action as per provision of law. It is stated by the Appellant that Plot No-188 though mentioned as Gramya Jungle in the RoR practically it was a barren low lying land without any vegetation. The Appellant had obtained the prior permission of Collector, Jharsuguda vide District Office Letter No-5949/dtd. 21.07.2011 to fill up the plot No-188 under Khata No-108 of Mouza- Bhurkamunda with fly ash.</p> <p>It is crystal clear from the joint report submitted by Tahasildar and ACF, Jharsuguda that the plot no-188 area Ac. 48.660 dec Kisam- Gramya Jungle is surrounded by ash pond of Vedanta Ltd.. All the plots contiguous to Plot No-188 have been acquired by Vedanta Ltd. through BCO for their ash pond.</p>	

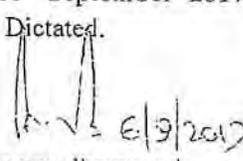


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Schedule-L-III ଓ ନିମ୍ନ ସଂ 321

[ଓଡ଼ିଶା ଅଭିଳେଷ ପ୍ରକରଣ ପୁସ୍ତକ, 1964 ର ପାଠାଗ୍ରାହ୍ୟ 207(1) ପ୍ରସ୍ତୁତ]

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	<p>The lone plot No188 is found to have been filled with ash and fly ash has been deposited in it, making a heap of ash of approx. 25 mts height. Earth capping has been done and plantation has been taken up. Forest species such as SHISHOO, KARANJA, NEEM & KADAM have been planted in Plot No-188 and the plants have grown up to 2 to 4 mts. height and the entire area now has forest growth over it. The Appellant submits that he has never obstructed the forest officials/ Govt. officials to enter into the said plot and inspect the same. There is also an approach road to the above Plot No-188.</p> <p>In view of the facts above, it is clear that the Appellant has filled up the low lying area with fly ash and has converted plot No-188 into a Green Belt having different forest species planted on it. Since the entire area of plot no-188 is surrounded by the land acquired by Vedanta through IDCO, physical eviction is practically an impossible proposition. Moreover, the company itself submits that they have not obstructed any access by Govt. Officials to the said plot. There is also no complain from any quarter regarding obstruction made by Vedanta to enter into plot no-188. Further it is also submitted by them that they have deposited 10% of the Administrative charges with IDCO for necessary alienation of the Govt. Land in Vill-Bhurkamunda which is under process. The very plantation taken up by the Company authorities has been with the Approval of District Administration and as such the company can not be blamed in this regard. Moreover the permission given by the District Administration was only to maintain the character of the land which was Gramya Jungle. Taking up plantation in the said plot -188 and the existence of such plantation has maintained the original characteristic of the land .Accordingly the Appeal made by Vedanta Alumina Ltd. is allowed as there has been no physical encroachment by the company on plot No-188 and other plots of Khata No- 108 of Mouza- Bhurkamunda as per E.C. Case No-158/13. Hence, the orders dtd. 03.09.2013 and subsequent orders dtd. 27.02.2017 of Tahasildar, Jharsuguda in E.C. No-158/13 are both set aside as the encroachment case is not maintainable taking the peculiar ground position of Plot No-188 of Khata No- 108 of Mouza- Bhurkamunda. Accordingly this case is disposed of. Close the case and consign it to record room.</p> <p>Orders Pronounced in the open court today i.e 06th September 2017.</p> <p style="text-align: right;">Dictated.  Sub-Collector, Jharsuguda</p>	



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BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

.....
ORIGINAL APPLICATION No.151/2016/EZ

IN THE MATTER OF:

1. Non Violence Again
Represented by its Managing Trustee Ms Puspa Sahani,
HIG-B/41, Kalinga Vihar,
Phase-III, Chhend colony,
Rourkela, Sundargarh,
Odisha-769015

2. Jagannat Bhoi,
Son of late Sitaram Bhoi
At Dalaki, PO Kalimandir Road,
Dist. Jharsuguda, Odisha, PIN 768202.

Versus

.....Applicants

1. Vedanta Limited,
(Formerly Vedanta Aluminium Ltd.)
1st Floor, Module C/2, Fortune Tower,
Bhubaneswar- 751023, Odisha

2. State of Odisha
Represented by Principal
Secretary, Forest and Environment
Deptt. Secretariat Building,
Bhubaneswar-751001

3. Union of India,
Through the Secretary,
M/o Environment & Forest, Climate Change,
Indira Paryabaran Bhawan, Jorbag
New Delhi-110 003

4. The District Collector, Jharsuguda,
Odisha-768201

5. The Principal Chief Conservator of Forests,
Forest Deptt. Govt. of Odisha,
Aranya Bhawan, Bhubaneswar,
Odisha-751923

6. The Divisional Forest Officer,
Jharsuguda, PO Jharsuguda

NATIONAL GREEN TRIBUNAL: EZB, KOLKATA
(i) Serial No. of the copy application..... 268
(ii) Name of the applicant..... Souvik Kumar Das, AK
(iii) Date of presentation of application..... 14/11/2017
(iv) No. of Pages..... 18
(v) Copying fee paid to the Registrar.....
(vi) Date of receipt of copy..... 14/11/17
(vii) Date of receipt of copy.....
(viii) Date of receipt of copy..... 14.11.17
(ix) Date of Delivery

Reg.
14.11.17
Signature

"Certified that this is a true and accurate copy
of the document of order as in the case No.
(Application/Appeal No.) 151/2016/EZ
that all the matters appearing therein have
been fully and faithfully copied with no
omission or addition."

Reg.
14.11.17
Signature

7. The Member Secretary,
Odisha State Pollution Control Board,
A-118, Nilakantha Nagar,
Bhubaneswar-751012

.....Respondents

COUNSEL FOR APPLICANTS:

Mr. Sankar Prasad Pani, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Siddhartha Mitra, Senior Advocate for Respondent No. 1

Mr. Deepan Kumar Sarkar, Advocate

Mr. Souvik Kundu, Advocate

Mr. Deepak Kumar Pani, Advocate, Respondents No. 2,4 & 6

Mr. Gora Chand Roy Chowdhury, Advocate, Respondent No. 3

Ms. S. Roy, Advocate

Mrs. Papiya Banerjee Bihani, Advocate, Respondent No. 7

JUDGMENT

PRESENT:

Hon'ble Mr. Justice S.P.Wangdi, Judicial Member

Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

Reserved On: 01 .11.2017
Pronounced On: 13 .11.2017

1. Whether the Judgment is allowed to be published on the
net? Yes

2. Whether the Judgment is allowed to be published in the
NGT Reporter? Yes

Prof. (Dr) P.C. Mishra (EXPERT MEMBER)

1. The Application was preferred, under Section 18 (1) read with Section 14 (1) and 15 of the National Green Tribunal Act, 2010 (in short, NGT Act) by two Applicants, one registered Non-Profit Organization (in short, NGO) named "Non-Violence Again" represented by its Managing Trustee, Ms. Puspa Sahani, and other Sri Jagannat Bhoi. The NGO Applicant works for affected communities who are facing crises and challenges from environmental threats where as Sri Jagannat Bhoi, the 2nd Applicant is a local tribal who has brought to the notice of the State and Union Government the alleged illegal and unauthorized use of forest land in Jharsuguda by the Respondent No.1, Vedanta Limited.
2. The Applicant would state that the Respondent No.1, Vedanta Ltd. formerly known as Vedanta Alumina Ltd. used 246.74 acres of forest land in Khata No. 108 illegally for its ash pond in Burrkhamunda village in Jharsuguda district without approval from the Central Govt. under Forest (Conservation) Act, 1980 (in short, FC Act). They further contended that Environmental Clearance (in short, EC) was obtained for expansion of their existing Aluminium Smelter and Captive Power Plant on 11th June, 2008, suppressing the fact on forest land and

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mentioning that no forest land is involved. It is also their case that the Divisional Forest Officer (in short, DFO) of Jharsuguda, the Respondent No.6 has confirmed in his reply to one RTI application that no forest land in Khata No. 108 has been allotted/given to Vedanta Ltd. for construction of ash pond or any other purpose.

3. It is further stated that in response to the representation of the Applicant No.2 and other villagers to the Secretary, Forest and Environment Department, Govt. of Odisha alleging encroachment of forest land for the ash pond of Respondent No.1, the DFO, Jharsuguda directed Vedanta to vacate the forest land of 246.74 acres which is illegally occupied by Vedanta Ltd. vide letter dated 20.01.2014. The DFO also requested the Collector and District Magistrate, Jharsuguda, Respondent No.4 for appropriate direction to Tahasildar, Jharsuguda to initiate eviction of encroachment by Vedanta Ltd. vide letter dated 20.01.2014 and one Encroachment Case No. 158/13 was instituted by Tahasildar, Jharsuguda against Vedanta Ltd. for encroachment of 108.29 acres of forest land (Gramya Jungle Kisam Category) in Khata No. 108 in Bherkhamunda Mouza.

4. In the light of the above-stated facts and circumstances and that the non-forest use of forest land without prior approval of the Union Government is a violation of Forest (Conservation) Act

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and order of the Hon'ble Supreme Court in Godavarman case in WP (b) 202 of 1995, the Applicants would make the following prayer for adjudication :

A) Direct the Respondent No. 2 and 3 to take necessary legal action against the respondent No. 1 including the criminal proceeding for wilfully violating the provision of Forest Conservation Act, 1980.

B) Direct the forest department, Respondent No. 2 and 3 to take necessary action against the Respondent No. 1 for unauthorised use of forest land for Ash Pond and other purposes;

C) Hold and declare that the construction activities carried out by the Respondent No. 1 is illegal.

D) Suspend the environment clearance letter dated 11/06/2008 for obtaining the same by suppression of facts and illegally using forest land for Ash Pond.

E) Impose heavy penalty on private respondent and direct the private respondent to restore the land to its original condition.

F) Hon'ble Tribunal may grant any other relief as his lordship deem proper in the interest of justice.

5. The State Pollution Control Board, Odisha, Respondent No. 7 in their reply affidavit in opposition would state that the matter relating to forest land and approval thereof under FC act does not come under their purview. However, the Respondent No. 1 industry has obtained necessary consent to operate valid till

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31.3.2017 for operation of its Aluminium Smelter Plant and Captive Power Plant under Section 25 of the Water(Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981.

6. The DFO, Jharsuguda in the affidavit filed on behalf of the Respondents No. 2,4,5 & 6 would reveal that the Respondent No. 1 Industry dumped fly ash at Kureboga Ash Pond spread over an area of 143.00 acres and the ash pond encircles a patch of Gramya Jungle of Ac 48.68 in Plot No. 188 in which the industry encroached and amalgamated with their ash pond on the plea that the Collector, Jharsuguda permitted for filling the low lying area in plot No. 188 without resorting to Forest diversion Proposal. Later the industry has been permitted by the State Pollution Control Board, Odisha to dispose of fly ash in ash ponds at Katikela over an area of Ac 192.00 and filling of low lying area at Bhagipali near Banjari gate and near Urja setu.

7. It is further stated in the affidavit that the Tahasildar, Jharsuguda booked an encroachment case bearing No.158/2013 against the Respondent No. 1 on the allegation made by the villagers for encroachment of Gramya Jungle in Mouza Burkhamunda, Khata No. 108 for an area of AC 108.29. However after field enquiry it was found that an area of Ac 48.68 in plot

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No.188 has been encroached by the industry and eviction order was passed. The industry has filed an appeal against the order of the Tahasildar and that matter is now *sub-judice*.

8. Vedanta Ltd. Respondent No. 1 in their affidavit filed on 4th January 2017 raised the issue of maintainability as there exist no cause of action or grounds to make the application maintainable. According to them, the contents of the said application are frivolous, capricious, misconceived containing insufficient and mutually inconsistent particulars and suffers from gross suppression of material facts and that the Applicants have approached the Tribunal with mala fide motive and with unclean hand to harass the Respondent No. 1. They would further state inter alia that the application is barred by the principles of *res judicata* as the content of the application have been the subject matter of other proceedings including the one before the Hon'ble High Court of Odisha.

9. On the allegation of the Applicants on use of forest land to dump fly ash, the Respondent No. 1 would further contend that on 27th May 2011, the Vedanta Ltd. sought for permission for filling of low lying area adjacent to the ash pond of answering Respondent in terms of MOEF Notification dt. 3rd November, 2009, i.e., Plot No. 188 of Khata No. 108 in village Burkhamunda

which was totally barren land giving an undertaking to take all measures to control fugitive emission, compact the dyke with 500 mm soil followed by forestation. The District Collector granted permission to Vedanta Ltd. vide letter dated 21st July, 2011 to fill up in the said low lying area with fly ash. On the expert advice of the Asst. Director of Horticulture, Jharsuguda, the low lying area of size 130'x127' at a depth of 5' was filled up with fly ash followed by watering, compaction and top soil covering and by aforestation and the completion of such work including plantation in 48.68 acres of land was informed to the District Magistrate and Collector on 21st November, 2015.

10. It is also stated in the affidavit that a Public Interest Litigation being WP (C) (PIL) No. 2660 of 2015 was filed before the High Court of Orissa, Cuttack by one Mr. Digamber Bag and Dr. Subash Mohapatra, both from Jharsuguda, purportedly verified on 13th February 2015 against, inter alia, the Respondent No. 1 on the self-same cause of action as in the instant application. At the time of hearing, the Applicants prayed for a direction to the Additional Chief Secretary, Revenue and Disaster Management Department, Govt. of Odisha to consider the representation of local peoples submitted before him. By its order dated 11.3.2015, the Hon'ble High Court was pleased to dispose of the writ petition

by asking the concerned authorities to consider the same, without going into the merits of the matter. Thus, it is further stated that the instant proceedings are not maintainable.

11. On the issue of encroachment case and Eviction order dt. 3rd September, 2013, the Respondent No. 1 would state that an appeal was preferred before the Sub-collector of Jharsuguda, being Encroachment Appeal case No. 03/2014 and an order of stay on the eviction order was passed on 4th March, 2014 which was vacated by the order dated 7th May, 2015. Following the vacation of the stay, the Tahasildar, Jharsuguda was directed to act as per the provision of law and the matter was posted for further hearing on 26th May, 2015.

12. The Collector, Jharsuguda, Respondent No. 4, would state that considering the application of Vedanta Ltd. to permit for filling up low lying area in Plot No. 188, Khata No. 108, Kisam Gramya Jungle located adjacent to their ash pond the Tahasildar was asked vide letter dated 13.6.2011 to conduct an enquiry regarding detailed status of the land and its suitability to be filled up by fly ash. On the report of the Tahasildar that there is no forest growth over plot No. 188, the plot is low due to lifting of earths and it is suitable for plantation after being filled up, the Collector permitted the Vedanta Ltd. to fill up ash adhering to the

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guidelines of MOEF notification dated 3.11.2009 strictly. From a Joint enquiry conducted by (i) Revenue Supervisor, Jharsuguda, (ii) ACF, Jharsuguda and (iii) Tahasildar, Jharsuguda, it was revealed that all the plots contiguous to plot No. 188 with an area of 48.68 acre are acquired by the Respondent No. 1 through IDCO for their ash pond and this lone plot of 188 was filled with fly ash making a heap of ash of approximately 25 m. During enquiry it was found that earth capping and plantation was being taken up. The district Collector has stated in the affidavit that by permitting filling up the low lying area by fly ash for the purpose of plantation does not violate the provisions of Forest (Conservation) Act, 1980 and he has never passed any order directing the use of forest land or any portion thereof for any non-forest purpose.

13. The State Pollution Control Board, in the additional affidavit filed on 27.4.2017 have categorically stated that no consent to operate has been granted to the Respondent No. 1 for dumping of fly ash over plot No. 188 in village Bhurkhamunda.

14. The MOEF & CC, the respondent No. 3 have dealt with the provisions of Forest (Conservation) Act, 1980 in their affidavit and would state that Principal Secretary, Forest & Environment Department, Govt. of Odisha, Respondent No. 2, has been requested to furnish an inspection report on the allegation of the

petitioners regarding use of forest land by Vedanta Ltd. for non-forest purpose without approval from the competent authority under section 2 of the Forest (Conservation) Act, 1980 and the report is awaited. MOEF & CC would further state that so far as the records available with the answering respondent no such proposal has been received with respect to the diversion of 246.74 acres of forest land and no such permission has been granted under the Forest (Conservation) Act, 1980.

15. The Respondent No. 1, the Vedanta Ltd. filed a further affidavit which was taken on record on 4th July, 2017 which summarises the affidavits filed by the Respondent No. 4, the District Magistrate and Collector and of MOEF, the Respondent No. 3 & 5. The other contents in the affidavits are the repetitions of what has already been stated above in respect to the affidavits filed by the respondents. However, in our order dated 27.4.2017, considering the statement of the MOEF & CC we directed that no unauthorised use of forest land for disposal of fly ash in the area in question shall be carried out further by the Respondent No. 1 until further order. The Respondent No. 1 was further directed to file show cause as to why this order should not be made absolute.

Mr. Siddhartha Mitra, Ld. Sr. Counsel appearing for the Respondent No. 1 would submit on 4th July 2017 that as no action

as alleged is being undertaken by the respondent No. 1 on plot No. 188 measuring about 48.6 acres, the order of prohibition dated 27.4.2017 has become redundant and inchoate. He would also state that the work for which permission was granted by the District Magistrate and Collector has been completed way back on 21.11.2015.

16. We have also examined the rejoinder affidavit filed on behalf of the applicants which are nothing but reiteration of earlier submissions and some additional information on ash pond breach in Katikela resulting in revocation of consent to operate which are not connected to the issues raised in this Original Application.

17. After hearing the Applicants and the respondents, perusing the pleadings carefully and examining the documents annexed to the affidavits of the parties, we now frame the following questions to find out the answers.

1. Whether the application is barred by limitation in terms of Section 14(3) of the NGT Act ?
2. Whether the application is not maintainable because of *res-judicata* ?
3. Whether the Plot No. 188 in Khata 108 of 48.68 acre area is a recorded forest land?

✍

4. Whether the permission granted by the District Magistrate and Collector, Jharsuguda to the Vedanta Ltd. to fill up the low-lying area in Plot No. 188 stated above with fly-ash and subsequent plantation over it without the approval of the Union Government is a violation of the Forest (Conservation) Act, 1980?

18. The discussion on question No. 2 depends upon the answer to question No. 1 and any discussion on question number 3 & 4 depends upon the answer to question No. 2. In other words, if the answer to question No. 1 is yes, then it is not required to traverse to question No. 2. Similarly, when answer to question No. 1 is no and answer to question No. 2 is yes, then we need not attempt to discuss on question No. 3 and 4 and the application will stand dismissed. Thus, only after the Applicants succeed to cross the first two hurdles, i.e., question No. 1 & 2, then only the matter will be adjudicated on merit.

19. So far as limitation is concerned, we may refer to the provision of the N.G.T. Act, 2010 on point of limitation.

Sec 14(3) of the NGT Act, 2010 reads as under :-

“ (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose;

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days. “

20. Thus, in terms of Section 14(3) of the NGT Act, the application has to be filed within a period of six months from the date when the cause of action for a dispute first arose. The Tribunal is vested with the power to condone the delay by another 60 days in terms of proviso to Section 14 if application is filed beyond six months. At this stage, it may be relevant to refer to the following portion of the judgement of the Principal Bench of NGT dated 10.12.2015 passed in OA 61 of 2012 in **Dr. Arvind Gupta –vs- UOI & Ors. and batch of other OAs** in which identical issues of cause of action and continued cause of action were raised.

“..... It is true that the application has to be filed within a period of 6 months from the date when the Cause of Action first arose. The Tribunal is vested with the power to condone the delay in terms of proviso to Section 14 if the application is filed beyond 6 months. This power can be exercised for condoning the delay but under and not in excess of 60 days. The term ‘cause of action’ has been used in contra distinction to continuing cause of action. In case of a continuing cause of action, ‘cause of action first arose’ has completely a distinct and different role while computing period of limitation. However, it is not equally applicable and does not have the same consequences in a case where the cause of action is recurring complete cause of action. In other words, whenever subsequent act or subsequent breach is a complete cause in itself and its consequences are different, then such cause of action would enable an applicant to bring action before the

Tribunal on the strength of the subsequent act. The limitation would be computed from the date of the subsequent breach or act. In this regard, we may refer to the judgment of the Tribunal in the case of *The Forward Foundation V. State of Karnataka*, 2015 ALL (I) NGT Reporter (2) (DELHI) 81 where the similar question of adherence arose. After hearing the law in detail the Tribunal held as under:

23. 'Cause of Action' as understood in legal parlance is a bundle of essential facts, which it is necessary for the plaintiff to prove before he can succeed. It is the foundation of a suit or an action. 'Cause of Action' is stated to be entire set of facts that give rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In other words, it is a bundle of facts which when taken with the law applicable to them gives the plaintiff, the right to relief against defendants. It must contain facts or acts done by the defendants to prove 'cause of action'. While construing or understanding the cause of action, it must be kept in mind that the pleadings must be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or passage and to read it out of the context, in isolation. Although, it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words, or change of its apparent grammatical sense. The intention of the party concerned is to be gathered, from the pleading taken as a whole. [Ref. *Shri Udhav Singh v. Madhav Rao Scindia*, (1977) 1 SCC 511, *A.B.C Laminart Pvt. Ltd. v. A.P. Agencies*, [AIR 1989 SC 1239].

27. Whenever a wrong or offence is committed and ingredients are satisfied and repeated, it evidently would be a case of 'continuing wrong or offence'. For instance, using the factory without registration and licence was an offence committed every time the premises were used as a factory. The Hon'ble Supreme Court in the case of *Maya Rani Punj v. Commissioner of Income Tax, Delhi*, (1986) 1 SCC 445, was considering, if

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not filing return within prescribed time and without reasonable cause, was a continuing wrong or not, the Court held that continued default is obviously on the footing that non-compliance with the obligation of making a return is an infraction as long as the default continued. The penalty is imposable as long as the default continues and as long as the assessee does not comply with the requirements of law he continues to be guilty of the infraction and exposes himself to the penalty provided by law. Hon'ble High Court of Delhi in the case of Mahavir Spinning Mills Ltd. v. Hb Leasing And Finances Co. Ltd., 199 (2013) DLT 227, while explaining Section 22 of the Limitation Act took the view that in the case of a continuing breach, or of a continuing tort, a fresh period of limitation begins to run at every moment of time during which the breach or the tort, as the case may be, continues. Therefore, continuing the breach, act or wrong would culminate into the 'continuing cause of action' once all the ingredients are satisfied. Continuing cause of action thus, becomes relevant for even the determination of period of limitation with reference to the facts and circumstances of a given case. The very essence of continuous cause of action is continuing source of injury which renders the doer of the act responsible and liable for consequence in law."

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21. The Applicants had filed the Application in the Tribunal on 3.10.2016. The documents annexed to the application reveals that some of the villagers led by one of the Applicants, Jagannat Bhoi made a representation to the Secretary, Forest and Environment Department, Govt. of Odisha on 26.08.2013 regarding encroachment of 108.00 acre of Gramya Jungle, in the site in question, the information of which was obtained through Right to

Information Act on 16.08.2013 from DFO, Jharsuguda that no forest land has been allotted to Vedanta Limited. Thus, by his own admission the 2nd Applicant became aware of the cause of action first arose with effect from 16.8.2015. Similarly, one of the Applicants in the writ petition No. WP (C) (PIL) No. 2660 of 2015 filed before the Hon'ble High Court of Orissa raising identical issues is Digamber Bag, who is also a co-applicant in the representation dt. 26.8.2013 along with Jagannat Bhoi. Thus, the cause of action first arose was known to the Applicants on 16.08.2013 and the application was filed in the Tribunal after 3 years, which is much beyond the prescribed time limit. Therefore, the present Application is barred by limitation on this count.

22. However, the Applicants have pleaded under 'limitation' that there is a subsisting cause of action because of the ongoing encroachment of forest land without approval of the competent authority. From our discussion on the affidavits filed by the respondents, it is evidently clear that felling as well as plantation/afforestation work had already been completed by the Respondent No. 1 by 21st November, 2015, i.e., much before the application was filed before the NGT i.e. on 3.10.2016. Therefore, the contention of the Applicants that there is subsisting cause of action or continuing cause of action is not acceptable to us when

the application was filed. From the affidavit of the District Magistrate and Collector, Jharsuguda, it is revealed that Plot No. 188 of Area – Ac 48.66 is surrounded by Ash Pond of Vedanta Ltd. All the plots contiguous to plot No. 188 have been acquired by the company through IDCO for their ash pond. The Respondent No. 1 has also stated that after the filling of Plot No. 188 and completion of plantation work, no work is undertaken by them and the plot in question is a free land from any form of encroachment.

23. Since at the time of filing the OA, there was no subsisting cause of action, the answer to question No. 1 is 'yes' i.e., the application is barred by limitation. Therefore, it is not now necessary to traverse to the other questions for their answers. It is made clear that we have not decided the matter on merit. The Applicants are at liberty to approach the appropriate forum to redress their grievance.

24. Thus, the application No. 151/2016/EZ stands dismissed.

No order as to costs.

"Certified that this is a true and accurate copy of the document of order as in the case No. (Application / Appeal No. 151/2016/EZ) that all the matters appearing therein have been legibly and faithfully copied with no modification"

For Registrar (NGT)
14.11.17

Mr. Justice S.P. Wangdi , JM

Prof.(Dr.) P.C. Mishra , EM

Kolkata,

Dated: 13th November, 2017.

98 ANNEXURE 13

CONSOLIDATED CAUSE TITLE

IN THE HIGH COURT OF ORISSA, CUTTACK

W.P(C) (PIL) No. 2650 of 2015

Code:

In the matter of: An application under 226 read with 227 of the Constitution of India;

AND

In the matter of: An application under Orissa High Court Public Interest Litigation Rules;

AND

In the matter of:

1. Digambar Bag, aged about , S/o- resident of Bhagipali, Po. Sripura, Dist. Jharsuguda, Odisha.
2. Dr. Subash Mohapatra, aged about 40 years, S/o. Late Jalandhar Mohapatra; Executive Director, Global Human Rights Communications, At:DibyasinghpurChhak, P.O.:Raipurapur, Dist:Puri,Odisha-7521019

....Petitioners

-VERSUS-

1. Union of India represented by Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003.
2. State of Odisha represented by Secretary, Department of Environment and Forests, Odisha Secretariat, Bhubaneswar, Dist. Khurda, Odisha.
3. The Collector-cum-District Magistrate, At/po/Dist.- Jharsuguda, Odisha.

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4. The Divisional Forest officer, Jharsuguda Forest Division, At/Po/Dist. Jharsuguda, Odisha.
5. The Tahasildar, At/Po/Dist. Jharsuguda, Odisha.
6. Vedanta Aluminium Ltd, represented by Vice-President, 232, Solitaire Corporate, Andheri-Ghatkopar Link, Chakala, Andheri (East), Mumbai-93, Maharashtra.
7. Vedanta Alumina Ltd, Represented by Vice-President, At- Bhurkamunda, Post/P.S/Dist. Jharsuguda, Odisha-768202.
8. M/S. Vedanta-Sesa-Sterlite Company Ltd. At/Po/Dist. Jharsuguda, Odisha.
9. Additional Chief Secretary to Govt., Revenue and Disaster Management Department, Odisha Secretariat, Bhubaneswar.

... Respondents

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2. That the petitioner No.-1 is actively involved in public spirited works/tasks initiated by the Petitioner No.2 organisation namely, Global Human Rights Communications, a registered civil society organisation committed for the upliftment of the weaker sections of the society, scheduled caste, scheduled tribes, below poverty line people and other victims of human rights violations. The said organization is led by Dr. Subhash Mahapatra, who successfully drawn the attention of Hon'ble Supreme Court of India on the issues of child marriage (in India) which led to bring legislation and awareness in the country to prevent child marriage in India. The writ Petition bearing No. WP (C) 212/2003 presented by the petitioner in the Hon'ble Apex Court of India regarding child marriage was appreciated.

3. That the petitioners are filing the present petition on their own and not at the instance of someone else. As public spirited persons, the petitioners have been working to promote the welfare of weaker and marginalized section of society.

4. That the facts of the case in brief are as follows:

4.1 Sesa-Sterilite Company Ltd. is the parent company of Vedanta Aluminium Ltd. (a registered company under the Companies act 1956 having its corporate office at Mumbai and branch office at Jharsuguda in Indian state of Odisha). The present O.P.No.-7 & 8 are the subsidiary

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companies of the O.P.No.-6. On the application of The Vedanta Aluminium Ltd., environmental clearance was granted to it by the Govt. of India, Ministry of Environment and Forests on 11/07/2007 on certain terms and conditions for expansion of Aluminium smelter and captive power plant at Bhurkhatamula/Briundamal at Jharsuguda in Indian state of Odisha. A copy of the letter dt. 11/7-2007 is filed herewith as ANNEXURE-1.

4.2 It is learnt that M/s Vedanta Sesa Sterlite Company at Jharsuguda, Odisha is a subsidiary company of the said Vedanta Aluminium Ltd. In due course of time it has come to the notice of the petitioners that the said Vedanta Aluminium Ltd. in defying law of the land and without obtaining any prior permission/sanction from the competent authority, has constructed Ash Pond over a large area of forest land measuring to the extent of about Ac. 246.74 belonging to Jharsuguda district in Indian state of Odisha. Having knowledge of the said facts, several complaints were made to competent authorities on different occasions by some conscious citizens of the locality including the petitioner requesting their indulgence in the matter for the protection of forest lands and the dependants on it. When the matter stood thus, on dt. 25-3-2013 another complaint was submitted to the present O.P.No.-2 highlighting the above illegalities of the said

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Vedanta Aluminium Ltd. A copy of the letter dt.26-3-2013 is filed herewith as ANNEXURE-2.

4.3 It is pertinent to mention that vide L.No.2367 dt.07-09-2013, the Divisional Forest Officer, Jharsuguda caused an explanation from the Range Officer, Jharsuguda to deal him with disciplinary proceeding for his failure to report about the illegal occupation of forest land by the Vedanta Sterlite company. Copy of letter dt.7-9-2013 is filed herewith as ANNEXURE-3.

4.4 When the matter stood thus the Divisional Forest officer, Jharsuguda in its L.No.2546 dt.5-10-2013 addressed to the Addl. Secretary to Govt. Forest and Environment Deptt. admitted the fact of illegal encroachment of forest kiasam land for use as Ash Pond by the Vedanta Sterlite company. The said letter dt.5-10-2013 is made on the basis of spot visit and joint enquiry report by the Asst. Conservator of Forests and the local Revenue Inspector, Jharsuguda. Copy of the letter dt.5-10-2013 is filed herewith as ANNEXURE-4.

4.5 At this juncture it is relevant to submit that L.No.238 dt.20-1-2014 of the said Divisional Forest Officer is evident that the Vedanta Aluminium Ltd. has illegally occupied Ac 245.74 of forest kiasam land belonging to Khata No.108

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plot Nos.(188, 512, 520, 525, 640, 684, 685, 700, 735, 745, 746, 524, 522, 763, 980, 985, 989, 992 and 916) in village Barkhamunda, under Jharsuguda Tahasil by making concrete boundary wall over it and the same is being used for ash pond violating the provisions of Forest Conservation Act, 1980 and the guidelines and clarification of the Govt. of India. Copy of letter dt.30.1.2014 is filed herewith as ANNEXURE-5.

- 4.6 The lands in respect of Khata No.108 plot Nos.(188, 512, 520, 525, 640, 684, 685, 700, 735, 745, 746, 524, 522, 763, 980, 985, 989, 992 and 916) in village Barkhamunda, under Jharsuguda Tahasil are Forest Kissan lands coming under the category of Village forest. The above village forest was rich with century old healthy structured fruit bearing trees like Mango, Jack, Neem, Palm and Roseberry. Besides this, Banana, Bel, Guava, Pine apple, and Star fruit were available in plenty. The local people including the petitioner, being the forest dwellers, have been completely dependent upon the said forest land and its produces to maintain their livelihood. It is also a fact that some rare species and medicinal plants were also available in the said forest land including wild animals, reptiles and birds. But it is sorrowful to bring to the notice of the Hon'ble court that the Vedanta Aluminium Ltd. has completely destroyed the said

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ecological structure by cutting the healthy trees and killing rare species without any prior permission of the competent authorities with some ulterior motive for its private gain which ultimately resulted in deprivation of the right to livelihood of the local people dependent on the forest.

4.7 In this regard the law is well settled that as per Rule-8 of the Orissa Village Forests Rules, 1985 no wood or forests produce shall be removed from the village forest except under and in accordance with the decision taken by the committee; to which the Vedanta Aluminium Ltd. has completely ignored. It is also submitted that knowing well that to clear up or breaks up any land for any purpose in any manner or to put any shed or structure on the forest land, is an offence as prescribed in Sec. 27 of the Orissa Forest Act, 1972, the Vedanta Aluminium Ltd. dared to flout the provisions of law with its good conscience which should not be an excuse in a country governed by Rule of law.

4.8 It is astounding to submit that instead of coming out heavily on the Vedanta Aluminium Ltd. as provided under law, the Divisional Forest Officer, Jharsuguda is sitting silent over the matter there by only issuing L.No.1396 dt.22-5-2014 advising the said Vedanta Aluminium Ltd. to

Jharsuguda

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vacate the forest land. Copy of letter dt.22-5-2014 is filed herewith as ANNEXURE-6.

4.9 It is further, submitted that when no tangible action was taken by the Divisional Forest Officer, on dt.15-9-2014, the petitioner and other people approached the Addl. Chief Secretary of the state of Odisha to enquire in to the above illegalities committed by the Vedanta Aluminium Ltd. But it is astounding to state that despite elapse of a considerable time no needful steps seems to have taken by the said authority which is unwarranted in the eye of law. Copy of the letter dt.18-9-2014 is filed herewith as ANNEXURE-7.

4.10 The Natural resources are the assets of whole nation and it is the obligation of all concerned including Union and State Governments to conserve and not waste these resources. Article 48A of the Constitution of India requires that the State shall endeavour to protect and improve the environment and to safeguard the forest and wild life of the country. Article 51A of the Constitution of India, is very clear that it is the duty of every citizen to protect and improve the natural environment including forest, lakes, rivers and wild life and to have compassion for living creatures.

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4.11 The judiciary in its wisdom, is much conscious about the fact that Forests are a vital components to sustain the life support system on the earth. Forests in India have been dwindling over the years for the use of forest area for development activities including economic development. Undoubtedly, in any nation development is also necessary but it has to be consistent with protection of environments and not at the cost of degradation of environments. Any programme, policy or vision for overall development has to evolve a systemic approach so as to balance economic development and environmental protection. Both have to go hand in hand. In ultimate analysis, economic development at the cost of degradation of environments and depletion of forest cover would not be long lasting. Such development would be counter productive. Therefore, there is an absolute need to take all precautionary measures when forest lands are sought to be directed for non forest use.

4.12 It is obligatory on the part of the Vedanta Aluminium Ltd that before diversion of forest land for non- forest purposes and consequential loss of benefits accruing from the forests, the user agency of such land be required to compensate for the diversion and the same should have with prior permission of the Central Government. The legislation of the country to provide for conservation of

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forest and for matters connected therewith or ancillary or incidental thereto enacted the Forest (Conservation) Act, 1980 (for short, the FC Act). It postulates that no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be used for any non-forest purpose. The Central Government under the FC Act has been empowered to constitute a Committee to advise it with regard to grant of approval. Under Section 2 of the Act the question of use of any forest land for non-forest purposes and any other matter connected with the conservation of forest may be referred to such a committee by the Central Government under the FC Act. The contravention of any of the provisions of Section 2 has been made an offence.

4.13 It is needful to state that the Vedanta Aluminium Ltd. has violated the general conditions as stipulated in Annexure-1 to the effect that it has expanded/modified its plant without prior approval of the Ministry of Forests for which the Ministry of Environment and Forests is competent to revoke or suspend the clearance.

4.14 That The source of information of the facts pleaded is based on the study carried by the petitioner. During the study, the petitioner No.-2 interviewed several people and

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authorities, collected relevant documents and gathered testimonies and evidences on different occasions.

5. That the petitioner has sent representation in this regard. The representations were sent to the different state authorities but no reply is received at his end till date.

6. That to the best of knowledge of the petitioner, no public interest petition raising the same issue is filed before this Hon'ble Court or before any other court.

7. That the present petition has been filed on the following amongst other grounds:

G R O U N D S

a. That the inaction of the state authorities to take stringent action against the Vedanta Aluminium Ltd. is bad in the eye of law.

b. That failure to comply with various provisions of Indian Forest Act and the Forest Conservation Act by the Vedanta Aluminium Ltd. is unsolicited.

8. That the petitioner most respectfully prays that this Hon'ble Court may be pleased to pass the following order:

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In light of the above stated facts and circumstances, it is, therefore, prayed that this Hon'ble Court may be graciously pleased to:

- a. Admit this writ petition, issue RULE NISI calling upon the opposite parties to show cause, and if the opposite parties fail to show cause or show insufficient cause, make the said rule absolute directing :-
- b. Any impartial agency as this Hon'ble court may deem fit and proper to hold a high level enquiry into the matter, and complete the same within the time stipulated by this Hon'ble court;
- c. The Vedanta Aluminium Ltd. to immediately vacate the land as specified in Annexure-5, and restore the said forest land with adequate plantation and maintain the same till it becomes as was before;
- d. The Collector to proceed with the officers departmentally for their negligent in duty and initiate criminal proceedings against the Vedanta Aluminium Ltd. as provided under law forthwith;
- e. The opposite party No.-1 to revoke the environmental clearance issued in favour of Vedanta Aluminium Ltd. vide Annexure-11. And
- f. Pass any other writ/writs and order(s)/direction(s) that Your Lordships may deem fit and proper in the interest of justice, equity and good conscience.

And for this act of kindness, the petitioner shall as in duty bound, ever pray.

Cuttack

Date: 13-2-15

By the petitioner through,

(Siddhanta Prasad Das)
Advocate

AFFIDAVIT

I, Digambar Bag, aged about 52 years, S/o Late Anandan Bag, resident of Bhagipali, Po- Sripura, Dist. Jharsuguda, Odisha, do hereby solemnly affirm and state as follows:

1. That I am the petitioner No. 1 in this case and have been duly authorized to swear this affidavit.
2. That the facts stated in the present petition as well as in the affidavit are true to the best of my knowledge and belief.

Identified by

Deponent

Advocate

CERTIFICATE

Certified that cartridge papers are not available and the English version of the Odia Annexures will be submitted when needed.

Cuttack

Date: 13-2-15

(Siddhanta Prasad Das)

Advocate

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W.P.(C) No.2660 of 2015226
13/3
[O. H. C.-98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
03.	11.3.2015	<p><u>Misc. Case No. 4691 of 2015</u></p> <p>Learned counsel for the petitioners files this misc. case to implead the Additional Chief Secretary to Government of Odisha, Revenue and Disaster Management Department, Odisha Secretariat, Bhubaneswar as opposite party no.0 to the writ petition. Let it be registered.</p> <p>Heard.</p> <p>Prayer is allowed. Let necessary corrections be made and the corrected cause title filed in Court be kept on record.</p> <p>The misc. case is disposed of.</p>	
04.	11.3.2015	<p><u>W.P.(C) No.2660 of 2015</u></p> <p>Heard Mr.S.P.Das-A, learned counsel for the petitioners, Mr.Pravat Kumar Padhi, learned Central Government Counsel for opposite party no.1 and Mr.J.Patniak, learned Additional Government Advocate.</p> <p>The petitioners have prayed for the following reliefs:</p> <p>"a. xx xx xx</p> <p>b. Any impartial agency as this Hon'ble Court may deem fit and proper to hold a high level inquiry into the matter, and complete the same within the time stipulated by this Hon'ble Court;</p> <p>c. The Vedanta Aluminium Ltd. to immediately vacate the land as specified in Annexure-5, and restore the said forest land with adequate plantation and maintain the same till it becomes as was before;</p>	

[O. H. C.-98]

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Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>d. The Collector to proceed with the officers departmentally for their negligent in duty and initiate criminal proceedings against the Vedanta Aluminium Limited as provided under law forthwith;</p> <p>e. The opposite party no.1 to revoke the environmental clearance issued in favour of Vedanta Aluminium Limited vide Annexure-1; and</p> <p>f. xx xx xx</p> <p>During midst of the hearing, learned counsel for the petitioners submits that since the representation of the petitioners dated 15.9.2014 under Annexure-7 to the writ petition is pending before opposite party no.9, a direction may be given for disposal of the same.</p> <p>In view of the above, this Court, without going into the merits of the case, directs the opposite party no.9 to consider and dispose of the above representation (Annexure-7) in accordance with law within a period of tow months from the date of production of a certified copy of this order which the learned counsel for the petitioners undertakes to do within ten days.</p> <p>The writ petition is disposed of accordingly.</p> <p>Issue urgent certified copy of this order on proper application.</p> <p style="text-align: center;">..... F</p>	

OGP-MP-PTS-U 2 (H. C.) 39-2,00,000-25-12-2014

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Annexure A-6

JIC 516
29.3.19

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

ORDER

RDM-LEGAL-CASEHC-0002-2019 / 9542 R&DM dated 23 MAR 2019

Enc/MW

Perused the orders contained in WP (C) No.2660 of 2015, wherein Hon'ble High Court vide their order No 03 dated 11.03.2015 have directed the Opposite Party No. 9 i.e Principal Secretary to Government, Revenue and DM Department to dispose of the grievance petition in accordance with law within a period of two months from the date of production of a certified copy of the said order.

2. Gone through the grievance petition dated 15.09.2014 filed by one Jagannath Bhoi and others of village Bhurkamunda under Jharsuguda district, which is shown as Annexure 7 of the writ petition. Also gone through the concerned file bearing No. GE-JHS-0005/2013 (Part), wherein Collector Jharsuguda was requested vide letter No.27958 dated 20. 09.2014 to cause an enquiry into the matter and furnish a detailed report along with his views to this department within 10 days from the date of receipt of the said letter. No report has been received from Collector till date. On receipt of the Contempt notice, ADM, Jharsuguda was asked to present the details on 15.03.2019. Collector, harsuguda was asked vide this department letter No.8872 dated 15.03.2019 to furnish a factual report and he has furnished the same vide letter No. 2295 dated 16.03.2019.

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3. Also gone through the report of Collector, Jharsuguda. He has reported that on receipt of the letter from this Department, a joint

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enquiry was conducted by Tahasildar Jharsuguda, ACF, Jharsuguda and Revenue Supervisor, Jharsuguda on 27.04.2015, which revealed that out of Ac.246.74 dec of Govt land in "Gramya Jungle" kisam, Ac.48.68 dec pertaining to Plot No.188 under khata No.108 (Rakht) of mouza Bhurkamunda had been filled with ash, making a heap of ash of about 25 mtrs by Vedanta Aluminum Ltd. The Company had taken up earth capping on the said plot and plantation work thereon. Collector Jharsuguda vide letter No.5949 dated 21.07.2011 had permitted Vedanta Aluminum Ltd to fill up the low lying areas of plot No.188 with fly ash subject to condition that all provisions of the extraordinary Gazette Notification of GOI bearing SO No-280-4 (e) dated 3.11.2009. Collector has also reported that prior to this permission, encroachment cases were booked against Vedanta Aluminum Company by Tahasildar Jharsuguda on 04.04.2013 and eviction order was passed on 0.3.09.2013. But no action has been taken.

4. After careful consideration of the prayer of the petitioner and the report of Collector, Jharsuguda and documents furnished, it is found that a patch of Ac.48.68 dec was utilized by M/s Vedanta Aluminum Ltd for dumping of fly ash, not Ac. 246.74 dec as alleged. Though a case was instituted against the Company, actual eviction had not been done as per the provisions of the OPLE Act, 1972. On the other hand, Collector has granted permission for filling up the ash in the land in question which is Jungle in kisam. Apparently, this permission has been given without any jurisdiction. Besides, filling up ash is a non-forest use of the forest land, which attracts the provisions of the Forest (Conservation) Act, 1980. Due cognizance of this legal position has not been taken by the

G. K. Singh
10/02/14

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Collector. Instead, the permission granted by him has created confusion and affected the eviction process initiated under the OPLE Act. The concerned ACF has neglected in his duty. He must have initiated action under the provisions of the FC Act, 1980 also.

5. In view of the above, following directions are issued;

- i. Collector, Jharsuguda is directed to withdraw permission granted to Vedanta Aluminium Ltd vide his letter No. 5949 dated 21.07.2011 for filling up fly ash over plot No.188 of mouza Bhurkamunda with immediate effect and evict the company from the entire forest land within a month.
- ii. Government dues like penalty, assessment and fine will be collected from the Company, as per the provisions of the OPLE Act, 1972.
- iii. RDC(ND)-Sambalpur will constitute a committee, consisting of concerned government officials, experts and three local eminent persons to assess the damage, if any, caused by the dumping of ash and the damages so assessed be recovered from the company. This exercise must be completed within six months.

The grievance petition is disposed off accordingly.

Memo No. 9543/R&DM

Principal Secretary to Government

Dated 23 MAR 2019

Copy forwarded to RDC(ND), Sambalpur/ Collector, Jharsuguda/ DFO, Jharsuguda/ Sub-Collector, Jharsuguda/ Tahasildar, Jharsuguda for information and necessary action.

Additional Secretary to Government

2019/03/23

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Memo No. 9544 /R&DM Dated 23 MAR 2019

Copy forwarded to ACS to Government, Forest and Env Department for information.

[Handwritten Signature]
23/3/19

Additional Secretary to Government

Memo No. 9545 /R&DM Dated 23 MAR 2019

Copy forwarded to Sri Jagannath Bhoi, of village Bhurkamunda, P.S/ Dist- Jharsuguda for information.

[Handwritten Signature]
23/3/19

Additional Secretary to Government

Memo No. 9546 /R&DM Dated 23 MAR 2019

Copy forwarded to O/O, Advocate General, Odisha, High Court with reference to order No.03 dated 11.03.2015 in WP(C) No.2660/2015 and Cont No. 6089/2016 for information and necessary action..

[Handwritten Signature]
23/3/19

Additional Secretary to Government

[Handwritten Signature]
Publi
Dist- Jharsuguda

IN THE HIGH COURT OF ORISSA: CUTTACK.

W.P.(C) NO. 17332 OF 2019

Vedanta Limited

Petitioner

-versus-

State of Orissa

and Others Opposite Parties.

I N D E X

<u>Sl.No.</u>	<u>Description of documents</u>	<u>Pages</u>
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Copy of the order dated 6.9.2017
17. VAKALATNAMA

Cuttack

Advocate

Date: 17.09.2019

For the Petitioner

IN THE HIGH COURT OF ORISSA: CUTTACK

(ORIGINAL JURISDICTION CASE)

W.P. (C) NO. 17332 OF 2019

CODE NO.

In the matter

An application under Article 226 and 227 of the Constitution of India.

AND

In the matter of

An application challenging the Order No RDM-LEGAL-CASE HC-002-2019/9542 R&DM dated 23.03.2019 issued by Principal Secretary, Government of Odisha, Revenue and Disaster Management Department directing inter alia the Collector, Jharsuguda to withdraw permission granted to Vedanta Aluminium Ltd. to fill fly ash over Plot No. 188 of Mouza- Bhurkhamunda with immediate effect and cause eviction of the Petitioner from the aforesaid land, ordering collection of Government dues

(penalty, assessment and fine) from the Petitioner as per provisions of the OPLE Act, 1972 and directing RDC (Sambalpur) to constitute a committee to assess damage (if any) caused by dumping of fly ash and recovery of the same from the Petitioner;

AND

In the matter of

An application challenging the Order No. 3054/Rev. dated 04.05.2019 issued by District Office, Jharsuguda (Revenue Section) revoking the permission accorded to the Petitioner for filling of fly ash over an area of Ac. 48.68. Agr. At Plot No. 188 under Khata No. 108 in Mouza Bhurkhamunda, Jharsuguda District granted vide District Office letter No. 5949/Rev. dated 21.07.2011, and Memo No. 3970 dated 22.06.2019 issued by District Office, Jharsuguda to the Petitioner;

AND

In the matter of

1. Vedanta Limited, a Public Limited Company registered under the provisions of the Companies Act, 1956 and having its registered office at 1st Floor, 'C' Wing, Unit 103, Corporate Avenue, Atul Projects Chakala, Andheri (East), Mumbai - 400093 and Business Unit at Jharsuguda, Odisha represented through its Mr. Nabal K. Sharma, Head (Legal) , Vedanta Ltd. , At/PO/District-Jharsuguda.

...Petitioner.

Versus

1. State of Orissa, Department of Revenue and Disaster Management (R&DM), Represented through it's Principal Secretary Government of Odisha, Bhubaneswar, Odisha, 751001
2. Collector, Jharsuguda. At/PO/District-Jharsuguda.
3. Sub-Collector, Jharsuguda, At/PO/District-Jharsuguda.
4. Tahsildar, Jharsuguda, At/PO/District-Jharsuguda

5. Revenue Divisional Commissioner (ND),
Sambalpur, Hans Nagar, District-Sambalpur,
Odisha, 768001 .

...Opposite Parties .

The matter out of which the writ application arises was partly before this Hon'ble Court in WP (C) NO. 2660/2015) disposed of on 11.03.2015 .

To,

The Hon'ble Shri Kalpesh Satyendra Jhaveri, B.Sc., LL.B., the Hon'ble Chief Justice of the Hon'ble High Court of Orissa and His Lordships Companion Justices of the said Hon'ble Court.

The humble Petition of
the Petitioner above named:

Most Respectfully Sheweth :

PRELIMINARY SUBMISSIONS

1. That by means of the present writ application, the Petitioner has been constrained to approach this

Hon'ble Court invoking its jurisdiction under Article 226 of the Constitution of India challenging the illegal and arbitrary actions of the Opposite Party No. 1 & 2 and in specific Order (Bearing Ref. No. RDM-LEGAL-CASEHC-OO2-2019/9542 R& DM dated 23.03.2019) issued by Principal Secretary, Government of Odisha, Revenue and Disaster Management Department (hereinafter referred as "Opposite Party No. 1") and the subsequent revocation order issued by Collector, Jharsuguda (hereinafter referred as "Opposite Party No. 2") vide Order No. 3054/Rev dated 04.05.2019 (hereinafter referred to as "Revocation Order"). It would be relevant to mention here that the Petitioner was made aware of the directions passed by Opposite Party No. 1 vide Ref. No. RDM-LEGAL-CASEHC-OO2-2019/9542 R& DM dated 23.03.2019 only on 04.05.2019 by way of the Revocation Order issued by Opposite Party No.2. A copy of the order dated 23.03.2019 is annexed hereto and is marked as **ANNEXURE - 1**. A copy of the order No. 3054 dated 04.05.2019 is annexed hereto and is marked as **ANNEXURE - 2**.

2. That briefly, Opposite Party No. 1 vide order dated 23.03.2019 has inter alia directed Opposite Party No.

2 to withdraw permission accorded to the Petitioner vide Office Order No. 5949/Rev. dated 21.07.2011 to undertake ash-filling activity at area of 48.68 Acr. at Plot No. 188, Khata No. 108 (Kissam-Gochar), at Bhurkhamunda Village, Jharsuguda, Odisha (hereinafter referred as 'Plot'). In furtherance to the said direction, Opposite Party No. 2 has, by way of the Revocation Order, withdrawn the said permission accorded to the Petitioner. Having been made aware of the unilateral and arbitrary order of the Opposite Party No.1, the Petitioner made a detailed representation on 17.05.2019 to the Opposite Party No. 2 stating inter alia that the Order dated 23.03.2019 is ex-facie illegal as it has been passed in violation of law without follow due process of law and without taking into consideration the detailed order dated 06.09.2017 passed by Sub-Collector, Jharsuguda over the same cause of action. The said actions are also arbitrary inasmuch as the Petitioner was not afforded an opportunity of presenting its case and was not even informed of the order till it was marked in Opposite Party No. 2's order dated 04.05.2019; passing of an administrative order having civil consequences without adhering to principles of natural justice is completely illegal and unjustified and therefore deserves to be set

aside. However, Opposite Party No. 2, in complete disregard of the representation and in ignorance of the settled position of law, vide Memo No. 3970 dated 22.06.2019 stated that the representation does not merit consideration. A copy of letter dated 17.05.17 is annexed herein as **Annexure-3**. A copy of the order dated 22.06.2019 is annexed hereto as **ANNEXURE - 4**.

3. That Briefly, it is the case of the Petitioner that the Order dated 23.03.2019 is completely arbitrary, unconstitutional and illegal due to the following reasons, which are without prejudice to one another:

a) Opposite Party No. 1 has passed the Impugned Order without affording the Petitioner an opportunity of being heard or making a representation. It is submitted that this court had categorically stated that any action by the Opposite Party No. 1 is to be done in 'accordance of law' and therefore it was incumbent upon the Opposite Party No.1 to adhere to principles of natural justice and the specific rule of *Audi Alteram Partem*. By passing a unilateral direction, without taking into account

①
Natural
Justice
Para 3(a)

the order of the Sub-Collector and without affording the aggrieved party an opportunity to present its case, Opposite Party No. 1 has acted in a completely illegal manner. Furthermore, Opposite Party No. 1 has failed to keep in mind the settled and fundamental position of law that any administrative order having civil consequences has to be on the anvil of adherence of Principles of Natural Justice, and rule of audi alteram partem is to be followed. It is more so interesting to note that the said order dated 23.03.2019 was not marked to the Petitioner and the Petitioner was made aware of the same vide order dated 04.05.2019 of Opp. Party No. 2;

b) The said order has been passed in furtherance of the directions of this Hon'ble Court in the case titled Digambar Bag and Anr. vs. Union of India and Ors. (W.P. (C) No. 2660/2015) wherein this court on 11.03.2015 passed an order, without going into the merits of the case, directing Opposite Party No. 1 to dispose of the representation of the writ petitioner(s) within two months in accordance with law. Thereafter, Opposite Party No. 1 failed to adhere and comply with the directions of this Hon'ble Court for 4 years, and in the year 2019 passed the Impugned Order. The said

order therefore suffers from severe laches and acquiescence;

c) More importantly, the Impugned Order suffers from material factual and technical flaws as the Opposite Party No. 1 in the said order has failed to take into consideration the order of the sub-collector dated 06.09.2017 in Encroachment Appeal Case 3/2014 (setting aside Order of the Tehsildar in EC Case 154/2013) which has significant bearing to the facts of the case and is instrumental in coming to any conclusion regarding the dispute. While undertaking factual nit-picking the Opposite Party No. 1 has passed a completely opaque and cryptic order which deserves to be quashed;

d) The Opposite Party No. 1 and 2 have also failed to appreciate the fact that the land in question has been left untouched and no ash filling activities have been carried out by the Petitioner since 2015. Furthermore, the Petitioner is not even in the possession of the land since 2015 and therefore the very question of encroachment of the subject land does not arise. The error is apparent on the fact of it as the Petitioner had duly intimated closure of ash-filling activities to the Opposite Party No. 2 vide letter dated 21.11.2015 and

(2)
No actual
possession of
land.
Para 3(d)

it was apprised to the authorities that the Petitioner has undertaken massive afforestation and soil capping activities as per instructions.

e) Without prejudice to the case of the Petitioner, Opposite Party No. 1 has passed the order in direct conflict with the Orissa Prevention of Land Encroachment Act, 1972 (hereinafter referred as 'OPLE Act'). It is submitted that whereas the OPLE Act provides for provisions for any unauthorised occupation of land, sections 4 and 7 provides for the power of the Tahsildar to levy assessment towards unauthorised occupation of land and also pass necessary orders from eviction thereof. Furthermore, Section 12 of the said enactment provides for a detailed mechanism of Adjudication, Appeal and Revision. it would be important to mention that this Hon'ble court vide order dated 11.03.2015 had directed Opposite Party No. 1 to dispose of the representation of the writ petitioner in accordance with law within two months. A conjoint reading of the aforementioned order and the provisions of the OPLE Act cited hereinabove the Opposite Party No. 1 ought to have remanded the case to Tahsildar, Jharsuguda/Sub-Collector, Jharsuguda in accordance

Para 3(e)
Direct conflict
with provisions
of Act.
Matter ought
to have been
remanded
down to
Tahsildar

with the provisions of the OPLE Act) While acting in complete disregard to the aforementioned High Court order and the provisions of the OPLE Act, Opposite Party No. 1 has acted in a completely arbitrary manner by passing the said direction as nowhere under the OPLE Act the Principal Secretary (R&DM Department) has been provided the powers or authority to adjudicate on dispute concerning land encroachment, etc. The impugned order deserves to be quashed on this very ground alone.

4. That the Petitioner Vedanta Ltd. (hereinafter referred as 'Petitioner') is a company incorporated under the Companies Act, 1956, having its registered office at 1st Floor, 'C' Wing, Unit No. 103, Corporate Avenue, Atul Projects, Chakala, Andheri (East), Mumbai 400093, Maharashtra, India and Site Office at Bhurkhamunda, P.O., Kalimandir, Jharsuguda, Odisha - 768202. The promoters of the Petitioner Company are citizens of India and the cause of action for this writ petition arises within the territorial jurisdiction of this Hon'ble Court.

5. That the Petitioner company is engaged in the business of manufacturing and selling Aluminium products and is having a 1.6 Million Tonnes Per Annum (MTPA) Aluminium Smelter Plant in the State. Petitioner has also set up a 1215 MW Captive Power Generating Plant (CPP) and a 2400 MW Thermal Power Plant (TPP) within the said premise to supply continuous and uninterrupted power to the smelter units. In addition to the foregoing, the Petitioner has also executed a Power Purchase Agreement (PPA) with the state nominated agency i.e. GRIDCO, by way of which, the Petitioner is liable to supply either the entire power generated from Unit 2 of its TPP or 30% of the total energy sent out from the TPP, whichever is higher.
6. That the Opposite Party No. 1, through its Principal Secretary, is a department of the state government of Odisha. Some of the important activities of the Department include administering matters relating to land; computerization of Revenue Offices, updation of land records; digitization of cadastral maps, inter-connectivity among revenue offices, under taking survey operations using modern technologies, distribution of Government waste land for agriculture/

homestead purposes, distribution of ceiling surplus land, prohibition of tribal land alienation, etc.

7. That the Opposite Part No. 2 is the Collector, Jharsuguda who is the Chief Officer in-charge of revenue administration besides being head of the criminal administration in the district. The OP NO 3 is the sub-collector, Jharsuguda, who is the appellate Authority and OP NO.4 is the Tahsildar, who is the authority under OPLE Act.

8. That the Opposite Party No. 5 is the Revenue Divisional Commissioner governed by the Orissa Revenue Divisional Commissioners Act, 1957, and who under the OPLE Act has been provided powers U/s 12 of the OPLE Act to call for and examine the records of any proceedings under the OPLE Act.

**BRIEF FACTS LEADING UP TO FILING OF THE
PRESENT WRIT PETITION:**

9 That on 26.09.2006 the Petitioner signed a Memorandum of Understanding (MoU) with Government of Odisha for establishment of a Thermal Power Plant at Jharsuguda. Thereafter, the Ministry of

mandated by the Ministry for the Petitioner to follow vis-à-vis 100 % utilisation of fly ash being generated in its power plants in accordance with the extant mandate of the Fly Ash Notification, 1999. The Petitioner was therefore bound by the terms of the said notification and had to comply with the same in letter and spirit.

11. That owing to gradual increase in power production and consequent generation of fly ash in the year 2010-11 Petitioner on 27.05.2011 applied to Opposite Party No. 2 for permission to fill low lying area adjacent to its existing Ash pond at the Plot. It was submitted by the Petitioner that the said land is completely barren without any vegetation and after filling the said area, compaction of dyke with 500 mm soil and afforestation shall be made. A copy of the letter dated 27.05.2011 is annexed herewith as **ANNEXURE -6**.

12. Thereafter, in response the Opposite Party No. 2 on 13.06.2011 directed the Tehsildar, Jharsuguda to conduct an enquiry detailing status of the land and its suitability to be filled with Fly Ash. A copy of the letter dated 13.06.2011 is annexed hereto as **ANNEXURE -7**

Upon conducting a detailed site inspection, the Tehsildar, Jharsuguda reported that there is no forest growth over the Plot and made its submission vide letter dated 24.06.2011. It was also reported that the plot is low due to lifting of earth in the nearby area and it is suitable for plantation after being filled up by ash. Copy of the letter dated 24.06.2011 is annexed hereto as **ANNEXURE -8**.

13. On 21.07.2011, having received the inspection report from the Tehsildar, Opposite Party no. 2 was pleased to accord permission to the Petitioner to fill Fly Ash over the Plot (hereinafter referred as 'Permission Letter'). It is pertinent to mention that the Permission Letter specifically stated that the guidelines enshrined in the Notification dated 08.11.2009 (supra) shall be strictly adhered to. A copy of the Permission Letter dated 21.07.2011 is annexed hereto as **ANNEXURE -9**.

14. That in furtherance to the Permission Letter, the Petitioner filled the low lying area with fly ash generated from its plant which was compacted subsequently. In the meantime on 04.04.2013, Tehsildar, Jharsuguda registered a case of alleged encroachment of 108.29 acres of Revenue Forest Land

(Case No. 158/2013) which was filed by a third party. The said land area is within the precincts of the said Plot of land for which the Permission Letter was accorded. The Petitioner on 23.04.2013 denied its liability of any encroachment following which a fresh report was sought from RI by the concerned Tehsildar under the provisions of the OPLE Act.

15. On 02.09.2013 the RI submitted its report which was taken into account by the Tehsildar and on 03.09.2013 vide notice u/s 9(i) of the OPLE Act, the Tehsildar ordered the Petitioner to vacate the said land premise. A copy of the order dated 03.09.2013 is enclosed herewith as ANNEXURE -10 .

16. That being aggrieved, the Petitioner appealed against the Tehsildar's Order vide Encroachment Appeal Case No. 03/2014 under the OPLE Act before the court of Sub-Collector. On 08.04.2015, the sub-Collector asked the Tehsildar to submit a status report on the case land which was submitted on 27.04.2015. It was mentioned in the status report that all the plots except plot No. 188 are found outside the Vedanta Plant Boundary and plot No. 188 involving an area of Ac. 48.680 (disputed in the encroachment case and

impugned in the Order dated 23.03.2019) is found surrounded by the Ash Pond of the Petitioner.

17. That field visit was conducted and during the said visit it was found that the Petitioner has taken up earth capping on Plot No. 188 and have also taken up plantation work. This joint verification report was signed by the Revenue Supervisor, Jharsuguda, Tehsildar (Jharsuguda) as well as ACF, Jharsuguda on 24.05.2015 and it was found that:

a) All the plots were jointly verified with respect to the Petitioner's ash pond and Plot No. 188 was found surrounded by the ash pond.

b) All other plots were found to be outside the Plant boundary and the ash pond.

c) All the plots contiguous to the ash pond have been acquired by the Petitioner through IDCO and during inspection it was found that the Petitioner has taken up earth capping on the Plot No. 188.

A copy of the Report dated 28.04.2015 is annexed hereto as ANNEXURE -11 .

18. Thereafter, on 23.12.2016 the Office of District Officer, Jharsuguda Forest Division vide Memo No. 4497 informed the Opposite Party No. 2 about the

plantation being carried out during different years (b/w 2013-14 to 2016-17) and as per records it was stated that over 30,000 plants had been planted over the Ash pond area showcasing massive afforestation. A copy of the Letter dated 23.12.2016 is annexed hereto as ANNEXURE - 12. It is important to state that filling up the low lying area by fly ash for the purposes of plantation does not violate the provisions of Forest (Conservation) Act, 1980.

19 In the meantime a Public Interest Litigation was filed before this Hon'ble Court (titled Digambar Bag and Anr. vs. Union of India and Ors. (W.P. (C) No. 2660/2015) wherein the writ petitioners incorrectly alleged that the Petitioner-Company had without obtaining any prior permission/sanction from the competent authority, constructed Ash Pond over a large area of forest land measuring 246.74 acres at Jharsuguda. In this regard the petitioner had also submitted a detailed representation to the Additional Chief Secretary which was enclosed in the writ alleging that the Petitioner has encroached over 246.74 acres of forest land and is using the same as Ash Pond and suitable action to vacate the said illegal encroachment

was prayed for. A copy of the Writ Petition is annexed hereto as **ANNEXURE - 13** .

20. This court on **11.03.2015** noted that the representation is pending before Opposite Party No. 1 and without going into the merits of the case while disposing off the petition, directed Opposite Party No. 1 to consider and dispose of the representation in accordance with law within a period of two months from the date of production of the order. It is submitted that whereas this court directed the representation to be disposed of, the legal mandate under sections 4 and 7 of the OPLE Act governing the dispute required the Opposite Party No. 1 to remand the case to Opposite Party No. 2 as the OPLE Act nowhere provides powers to the Principal Secretary (R&DM) Department powers to adjudicate on land encroachment cases.

21. On **21.11.2015** the Petitioner wrote to Opposite Party No. 2 informing him that after filling of the Plot permission of which was accorded vide letter dated **21.07.2011**, the Petitioner has taken all measures to control fugitive emission by undertaking soil capping over the Plot and has also undertaken afforestation

activities. The Petitioner enclosed photographs of the said area and it was submitted by the Petitioner that ash-filling exercise on the Plot has been completed and no more ash filling was required. It is submitted that whereas the Hon'ble High Court's direction was pronounced in the year 2015, and soil capping was completed in the same year, the Opposite Party No. 1 and 2 gave effect to the said direction of this Hon'ble court only in the year 2019 with a delay of more than 4 years. The said action being completely erroneous and illegal wherein a quasi judicial order has been passed unilaterally on a pre dated issue which is not causing any harm and permissions of which were accorded to the Petitioner by the very same administration after under taking due process of law and procedure. It is therefore submitted that such a unilateral action on the part of a state entity deserves to be condemned and order dated 23.03.2019 should be quashed in limine on this very ground. Copy of the letter dated 21.11.2015 is annexed hereto as **ANNEXURE 14**

22. On 29.03.2017 Opposite Party No. 2 went ahead and conducted a field visit along with District Forest Officer (DFO), Jharsuguda, and Tehsildar, Jharsuguda

Para 22

concerning the Encroachment Appeal case filed by the Petitioner. That by way of a detailed order dated 06.09.2017 the court of Sub-Collector noted that the Plot has been filled with ash up to approximate height of 25 mtrs. The court therefore held that as per the report of the Tehsildar, Plot No. 188 measuring 48.660 acres (Kisam-Granya Jungle) is surrounded by the ash pond of the Petitioner and all the plots contiguous to Plot No. 188 have been acquired by the Petitioner through IDCO for their ash pond. The lone plot No. 188 has been found to be filled with ash and fly ash has been deposited in it. Earth capping has been done and plantation has been taken up. It was noted by the sub-collector that forest species such as SHISHOO, KARANJA, NEEM and KADAM had been planted in Plot No. 188 and plants have grown up to 2-4 mts height and the entire area has no forest growth over it. Furthermore, there is an approach road which leads to Plot No. 188. It was stated that the Petitioner has converted the Plot into a Green Belt having different forest species planted on it. More importantly, since the entire area of Plot No. 188 is surrounded by the land acquired by the Petitioner, physical eviction is practically an impossible proposition and it was noted that the Petitioner at no time has obstructed any

access to the said plot. The very plantation was undertaken with the approval of the district administration and such the Petitioner cannot be held at fault. Taking up plantation work in Plot No. 188 and existence of such plantation has maintained the original characteristic of the land.

23. The court of sub collector therefore allowed the said Appeal and held that no physical encroachment on Plot No. 188 and other plots of Khata No. 108 of Mouza-Bhurkhamunda was done. While setting aside the Tehsildar's order in EC. No. 158/2013 dated 03.09.2019 it was held that encroachment case is not maintainable. A copy of the Order dated 06.09.2017 is annexed hereto as **ANNEXURE -15**.

24. That thereafter on 23.03.2019, in furtherance to abovementioned High Court direction, the Opposite Party No. 1 acting in complete disregard to the provisions of the Orissa Prevention of Land Encroachment Act, 1972 and in violation of principles of natural justice passed the following directions.

- a) The Collector, Jharsuguda shall withdraw the permission granted vide letter no. 5949 dated 21.07.2011 with immediate effect and evict the

Petitioner company within one month from the date of the order:

- b) It was directed that Government dues like penalty, assessment and fine will be collected from the Company, as per the provisions of the OPLE Act.
- c) RDC (ND) Sambalpur shall constitute a committee, consisting of concerned government officials, experts and three local eminent persons to assess the damage, if any caused by the dumping of ash and the damages so assessed shall be recovered by the Company. This exercise shall be completed within a period of six months.

25. It is submitted that Opposite Party No. 1 in the impugned order dated 23.03.2019 has failed to take into account the aforementioned order dated 06.09.2017 in Encroachment Appeal Case No. 03/2014 thereby making the impugned order *ex-facie* illegal and completely arbitrary as reliance has been placed by the Opposite Party No. 1 on order dated 03.09.2013 passed in EC Case No. 158/2013 by Tehsildar, Jharsuguda which was set aside by the court of sub-collector. It is further submitted that the

Opposite Party No. 1, having taken into account the order dated 03.09.2013 in EC Case No. 158/2013 was bound to also take into account the order dated 06.09.2017 passed by Sub-Collector, Jharsuguda and the Letter dated 21.11.2015 of the Petitioner wherein it has been stated that no further ash filling exercise is being carried out. By not taking into account the above facts and by not affording the Petitioner an opportunity of hearing, the Opposite Party No. 1 and 2 have acted in an illegal and unconstitutional manner violating principles of Article 14.

26. That in compliance with the abovementioned R&DM Order, the Opposite Party No. 2 on 04.05.19 revoked the permission granted to the Company to dump fly ash vide Permission Letter. In response to the abovementioned Revocation Order, the Petitioner-Company vide letter no. 670 dated 17.05.2019 apprised the Opposite Party No. 2 (Collector, Jharsuguda) about the fallacies in the R&DM Order dated 23.03.2019. Briefly, it was pointed out by the Petitioner that:

a) it had received permission in the year 2011 by the Collector based on a report of Tahsildar, Jharsuguda which had informed that there is no forest growth over

- the plot. Further, the said permission has been accorded as per the MoEF Notification of 1999 and 2009 regarding ash-filling guidelines;
- b) A field visit was conducted on 29.03.2017 along with DFO (T) and Tahsildar, Jharsuguda wherein it was observed that the said plot has been capped with soil and there is widespread afforestation in the area;
- c) The Tehsildar's report relied upon by the Office of Revenue and Disaster Management in its revocation order stands infirm as the said report was appealed against in Encroachment Appeal Case No. 03/2014 and the Court of Sub-collector had set aside the same. The Sub-collector in fact disposed of the appeal in the year 2017 holding that there has been no physical encroachment by the Petitioner on the plots; and
- d) More importantly, the Petitioner submitted a compliance letter on 21.11.2015 to the Collector informing that ash-filling has been completed with soil capping and tree plantation. In the meantime however, a Public Interest Litigation was filed before Odisha High Court in WP (C) No. 2660/2015 on similar cause of action wherein the Hon'ble High Court vide order dated 11.03.2015 directed Office of Revenue and Disaster Management, Odisha to consider and

dispose-off the representation within 2 months in accordance with law.

27. That it is submitted that it is with respect to this direction of this Hon'ble High Court and fearing any subsequent strictures which might be imposed by court keeping in view the severe delay and laches to implement the said direction, the Office of R&DM, in a completely rushed and high handed manner, issued the revocation order dated 23.03.2019 without basing the same on updated factual and evidential scenario and without affording the Petitioner an opportunity of being heard. In fact, the Petitioner was not even copied in the said revocation order which principally affects its rights. At this juncture, it would be important to mention that the foregoing High Court Order directed Principal Secretary, R&DM to dispose of the representation made by the Petitioner therein within a period of 2 (two) months and in accordance with the provisions of law. Under Section 12 of the OPLE Act, 1972 it is only the Sub-Collector who can exercise appellate jurisdiction against the order passed by the Tehsildar. Hence, the matter should have been ideally referred to Tahsildar, Jharsuguda /Sub-Collector for his necessary actions as he is the Appropriate

Authority under the law. Therefore, the Principal Secretary, R&DM erred in passing the order dated 23.03.19 as it does not have the necessary jurisdiction to pass such order.

28. That thereafter, regular follow ups were being undertaken with the District Office, Jharsuguda so as to ascertain the correct position and whether there was an error on the part of Office of R&DM while issuing the aforementioned order. However, on 22.05.2019, the Petitioner, much to its surprise received a letter from the District Office stating that its clarification letter dated 17.05.2019 did not merit consideration and the revocation order dated 23.03.2019 has been passed in compliance with directions of Hon'ble High Court in W.P. (C) 2660 of 2015. The Collector, unilaterally dismissed the submissions made by the Company without examining the facts on record while stating that the same has been done in accordance with the High Court Order.

29. That it is briefly submitted that Opposite Party No. 1 and 2, in view of the facts and circumstance acted as quasi judicial forums. In the present case, Opposite Party No. 1 erroneously has taken upon itself

to adjudicate the dispute by relying on the High Court direction dated 11.03.2015; even though this court had stated that the representation would be disposed of in accordance with law i.e. in accordance with the provision of OPLE Act. Furthermore, Opposite Party No. 1, having adjudicated the dispute failed to adhere to the principles of natural justice. It is submitted that an administration function is quasi-judicial when there is an obligation to adopt the judicial approach and to comply with the basic requirements of justice (See *Ridge v Baldwin* 1963 2 All ER 66). Furthermore, the concept implies that the act is not wholly judicial, and only a duty is cast on the executive body or authority (in the present case Opposite Party No. 1) to conform to norms of judicial procedure.

30. That it is further settled position of law that an administrative order which involves civil consequences must be made consistent with the rule expressed in the Latin maxim *Audi Alteram Partem*. The decision should afford to any party to the dispute an opportunity to present his/her case. It is undisputed that an important fulcrum of this legal theory is that the concerned person must be informed of the case against him and evidence in support therefore and

must be given a fair opportunity to meet the case before any adverse decision is taken (Refer State of Orissa vs. Dr. Binapani Dei and Ors.).

31. That it is also submitted that it is an established principle that justice should not only be done but should be seen to be done. The duty is not so much to act judicially but to act fairly: by passing a unilateral order under the guise of being bound by this court's direction, without appreciating complete evidence and without following principles of natural justice the Respondents have acted in a completely arbitrary, illegal and unfair manner which deserves to be intervened and suitable relief be granted to the Petitioner.
32. That in view of the above ultra vires actions of Opposite Party No. 1 and 2, the Petitioner is constrained to approach this Hon'ble Court and file the present writ application inter alia for quashing the Order dated 23.03.2019 , Order dated 04.05.2019 and Memo dated 22.06.2019 respectively.

GROUND S

33. That being aggrieved by the arbitrary, unreasonable, and illegal action of the Opposite Party No. 1 and 2 the Petitioner prefers the present petition for consideration of this Hon'ble Court on the following grounds which are without prejudice to one another:

A. BECAUSE the Opposite Party No. 1 and 2 have fallen in grave and serious error by not following the express mandate of the Court Order dated 11.03.2015 in WP (C) No. 2660 of 2015 wherein this Court had provided an express time limit of 2 months to consider and dispose of the representation filed by the writ petitioners in accordance with law.

Court directions not followed

B. BECAUSE the Opposite Party No. 1 has shown complete and utter disregard towards the fact that whereas it was bound by the directions of this Hon'ble Court it has passed Order dated 23.03.2019 after a lapse of more than four years from the date of the order of the High Court in WP (C) No. 2660 of 2015.

C. BECAUSE the Opposite Party No. 1 failed to take into account material evidence and in particular

Dub collector's order not taken into consideration

Order dated 06.09.2017 in Encroachment Appeal Case No. 03/2014 passed by the Court of Sub-Collector while adjudicating on the dispute. It is submitted that failure to take into account material evidence and facts while performing quasi-judicial function is in itself a complete ground to quash the impugned order(s) inasmuch as the order is illegal, arbitrary and based on incorrect appreciation of fact as well as law.

D. BECAUSE the Opposite Party No. 1 failed to take into account the fact that the order of the Tehsildar dated 03.09.2013 in EC Case 154/2013 was appealed against by the Petitioner and the district administration in cooperation with the District Forest Officer undertook detailed inspection of the site area and found no illegality whatsoever

E. BECAUSE the Opposite Party No. 1 and 2 failed to take into account the fact that ash-filling activities were completed by the Petitioner in the year 2015 and vide letter dated 21.11.2015 the Petitioner apprised Opposite Party No. 2 that no further ash-filling is to be carried out. Furthermore, the Petitioner is not even in the possession of the land since 2015 and therefore the very question of encroachment of the subject land

Petitioner is not in possession of land

does not arise. It was also apprised to the respondent that all measures have been taken by the Petitioner to control fugitive emission by way of soil capping over the plot and massive afforestation has been undertaken. It is the case of the Petitioner that the concerned Plot in question has been left untouched since November, 2015 and the Opposite Party has fallen in grave and serious error to give a complete go by to this fundamental aspect of the issue in the impugned order. It is further submitted that Opposite Party No. 1 has also fallen in serious error to not take into account the fact that the Petitioner has acted in complete bona fide upon instructions of the district administration and no fault could have been attributed to the Petitioner insofar as ash-filling activities are concerned which were completed in the year 2015.

F. BECAUSE the Opposite Party No. 1 has fallen in serious error by also not appreciating the fact that whereas the Office of sub-collector undertook the site inspection and called for a fresh report from the Tehsildar way back in the year 2015, the Tehsildar on 27.04.2015 submitted that all plots except Plot No. 188 have been found outside the perimeters of the Petitioner's Plot which the Petitioner has acquired from

*Site inspection
report / DA's
opinion*

IDCO and for which permission was accorded by the very same District Administration on 21.07.2011. It is submitted that the Petitioner has been gravely prejudiced and illegality and biased is writ large in the present case wherein on the one hand permissions have been given by one limb of the executive; and on the other the permission is being considered to be 'illegal' by a completely different department of the state government.

G. BECAUSE the Opposite Party No. 1 has failed to notice that there is no encroachment in the Plot measuring acres 48.68 acres out of the total Acr. 246.74 Acr pertaining to Plot No. 188 under Khata No. 108 (Rakhit) of mouza Burkhamunda. It is submitted that para 4 of the impugned order dated 23.03.2019 completely fails to take into account the detailed observation and ruling of the Court of Sub-Collector in Encroachment Appeal Case 03/2014 dated 06.09.2017.

H. BECAUSE the Opposite Party No. 1 has acted in complete contravention of the OPLE Act. It is submitted that issues related to encroachment if any in the state is dealt with under the OPLE Act. The said

H
complete
contravention
of OPLE Act

act provides for a detailed mechanism of Appeal and Revision, which in turn govern the adjudicatory procedure in cases of disputes. It is the case of the Petitioner that the Opposite Party No. 1, by way of order dated 11.03.2015 passed by this court in WP (c) No. 2660 of 2015 has exercised jurisdiction which is not vested in it by law. Furthermore, the Impugned Order dated 23.03.2019 is *dehors* provisions of the OPLE Act inasmuch as a bare perusal of section 12 would reveal that Sub-Collector is the appellate authority against any orders passed under the legislation and there is no provision under the OPLE Act which authorises Opposite Party No. 1 to set aside an order passed by either the Tehsildar or the Sub-Collector. Reference in this regard be made to section 12 of the Act which states as follows:

“Section 12 - Appeal and revision

- (1) An appeal from any decision or order made under this Act by the Tahsildar shall lie to the Sub divisional Officer.
- (2) The Collector may revise a decision or order made by a Sub- divisional Officer under Subsection (1) or under Section 7 or Section 8-A.
- (3) The Revenue Divisional Commissioner having jurisdiction may call for and examine the records of any proceedings under this Act before any officer in which no appeal or revision lies and if such officer appears-
 - (a) to have exercised a jurisdiction not vested in him by law; or
 - (b) to have failed to exercise a jurisdiction so vested; or

(c) while acting in the exercise of his jurisdiction, to have contravened some express provision of law affecting the decision on the merits, where such contravention has resulted in serious miscarriage of justice, it may, after giving the parties concerned a reasonable opportunity of being heard, pass such orders as it deems fit

(4) Pending the disposal of any appeal or revision, the Sub divisional Officer, the Collector or the Revenue Divisional Commissioner, as the case may be, may stay the execution of the decision or order appealed against or sought to be revised "

It is therefore submitted that a statutory order required to be passed by a state entity, must be passed by an authority authorised in that behalf in terms of the provisions of the OPLE Act. Opposite Party No. 1 is not a statutory authority being authorised to pass a final order under Section 12. Authority to act under a Statute must be expressly granted thereunder or the same must be found out from the statute itself by necessary implication.

I. BECAUSE actions of Opposite Party No. 1 are not just ex -facie arbitrary and illegal but are unconstitutional in as much as it violates principles of Article 14 and is completely discriminatory in nature. It is submitted that Opposite Party No. 1 and 2 have exercised their executive powers resulting in severe prejudice being caused to the Petitioner. Furthermore, provisions of

the OPLE Act does not leave unfettered and uncanalised discretion to the Respondents to cause eviction and the Respondents are bound by the Constitution of India as well as principles of natural justice.

J. BECAUSE the impugned orders dated 23.03.2019, 04.05.2019 and Memo dated 22.06.2019 reveal that the impugned orders have been passed with non-application of mind. It is submitted that the Opposite Party No. 1 has passed the order dated 23.03.2019 in order to simply comply with the directions of this Hon'ble Court which had to be complied in a time bound manner within 2 months. It is submitted that it is settled position of law that where the court has directed compliance of an order in a time bound manner, the same has to be strictly adhered to; in the present case the actions of the Opposite Party suffer from severe delay and laches and have been passed in an arbitrary manner without affording the affected party an opportunity of being heard.

K. BECAUSE wide powers have been provided under the OPLE Act to the executive authority to undertake investigation as well as to adjudicate in cases of

encroachment. It is the case of the Petitioner that when such wide powers is vested with the Government, it is to be exercised with great circumspection and the said exercise is hedged in checks and balances. It is further submitted that entrustment of power to the state is done only keeping in mind the greater cause of public duty and while exercising such power the state has to act in a reasonable manner keeping the objective and policy of the enactment in mind. Whereas there is a clear finding by the Court of Sub-Collector vide order dated 06.09.2017 in Encroachment Appeal Case No. 03/2104 to the effect that the Petitioner has not caused any encroachment, the Opposite Party No. 1 ought to have taken the same into account before passing an order causing nullification of Permission Letter. It is submitted that the Opposite Party, while ordering withdrawal of Permission Letter, has completely failed to foresee the recoil of its actions and the fact that no ash filling exercise has been carried out since 2015 in the affected area. The same shows complete non-application of mind on the part of the Respondents.

L. BECAUSE the Hon'ble High Court in WP(C) No. 2660 of 2015 dealt with a complete distinct cause of action wherein the writ petitioners had made a representation to the Additional Secretary of State Government. It is submitted that this Hon'ble Court directed Opposite Party No. 1 to dispose of the same in accordance with law within two months. It is submitted that by unilaterally passing an order affecting the rights of the Petitioner which did not concern the representation of the writ petitioner after four years of the direction, and without affording the Petitioner an opportunity of hearing the Opposite Party No. 1 has illegally drawn inferences and has passed a cryptic order which deserves to be quashed in limine.

M. BECAUSE the Opposite Party No. 1 and 2 fell in grave error in passing an order without following the due process of law and principles of natural justice. It is submitted that the Petitioner, subsequent to being made aware of the order dated 23.03.2019 wrote a detailed without prejudice reply to Opposite Party No. 2 on 17.05.2019 requesting inter alia to reconsider its decision of revocation. However, the same was declined vide Memo dated 22.06.2019 wherein Opposite Party No. 2 sought refuge in the fact that it has been

directed by Opposite Party No. 1 vide order dated 23.03.2019 to revoke the permission granted on 22.07.2011. It is therefore submitted that Order dated 23.03.2019 is completely arbitrary, illegal and having civil consequences required for it to be passed after hearing the Petitioner's case. It is important to state that the said order dated 23.03.2019 affecting the rights of the Petitioner was not marked to it and it was only vide Revocation Letter dated 04.05.2019 that the petitioner was made aware of the same.

N BECAUSE it is settled position of law that justice is required to be seen to be done and principles of natural justice are those fundamental rules, the breach of which will prevent justice from being seen to be done. Reference in this regard be made to the case of S.L. Kapoor v. Jagmohan and Ors. (AIR 1981 SC 136) wherein the court has held:

"The principles of natural justice know of no exclusionary rule dependant on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced."

Reference may also be made to the case of State of Odisha v. Binapani Dei and Ors. (AIR 1967 SC 1269) which has held that even in case of administrative orders having civil consequences, principles of natural justice are applicable and have to be adhered to.

O. BECAUSE principles of natural justice is the essence of fair adjudication, deeply rooted in tradition and conscience and is to be ranked fundamental. The purpose of following the principles of natural justice is the prevention of miscarriage of justice. It is submitted that by not adhering to the fundamental principle of Audi Alteram Partem the Opposite Party No. 1 has acted in a completely illegal and unjustified manner and the said actions deserve to be struck down. Reference in this regard may be made to the celebrated case of Uma Nath Pandey and Ors. vs. State of U.P. and Ors (2009) 12 SCC 40 wherein the apex court has elucidated on the principle of natural justice and has eloquently explained the concept of opportunity of fair hearing. The relevant para is produced here in below:

"8. The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in

issue. These principles are well settled. The first and foremost principle is what is commonly known as *audi alteram partem* rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time.

10 Principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.

17. How then have the principles of natural justice been interpreted in the Courts and within what limits are they to be confined? Over the years by a process of judicial interpretation two rules have been evolved as representing the principles of natural justice in judicial process, including therein quasi-judicial and administrative process. They constitute the basic elements of a fair hearing, having their roots in the innate sense of man for fair-play and justice which is not the preserve of any particular race or country but is shared in common by all men. The first rule is 'nemo iudex in causa sua' or 'nemo debet esse iudex in propria causa sua' as stated in (1605) 12 Co.Rep.114 that is, 'no man shall be a judge in his own cause'. Coke used the form 'aliquis non debet esse iudex in propria causa quia non potest esse iudex et pars'

(Co.Litt. 1418), that is, 'no man ought to be a judge in his own case, because he cannot act as Judge and at the same time be a party'. The form 'nemo potest esse simul actor et iudex', that is, 'no one can be at once suitor and judge' is also at times used. The second rule is 'audi alteram partem', that is, 'hear the other side'. At times and particularly in continental countries, the form 'audietur et altera pars' is used, meaning very much the same thing. A corollary has been deduced from the above two rules and particularly the audi alteram partem rule, namely 'qui aliquid statuerit parte inaudita alteram actquam licet dixerit, haud aequum facerit' that is 'he who shall decide anything without the other side having been heard, although he may have said what is right, will not have been what is right' (See Bosewell's case (1605) 6 Co.Rep. 48-b, 52-a) or in other words, as it is now expressed 'justice should not only be done but should manifestly be seen to be done'. Whenever an order is struck down as invalid being in violation of principles of natural justice, there is no final decision of the case and fresh proceedings are left upon. All that is done is to vacate the order assailed by virtue of its inherent defect, but the proceedings are not terminated."

P. BECAUSE the said impugned orders, in addition to be illegal and having been passed in contravention of the OPLE Act, also suffer from severe delay and laches, and deserve to be quashed. It is submitted that ideally, and without prejudice to the foregoing, the Opposite Party No.1 with a direction to dispose of the matter in 'accordance with law within two months' should have remitted the case to the Sub-Collector to take appropriate steps. It is further submitted that the OPLE Act provides for a procedure for adjudication

and therefore the same is bound by principles of limitation. In *Sarojini Mallik vs. State of Orissa and Ors.* (2005) (1) OLR 66) this court has held that period prescribed under section 12(2) of the Act, in computing the period of limitation of revision, provisions of Limitation Act shall be applicable (under Article 137) and three year time limit is to be prescribed for all applications for which no specific provisions is made. Similarly, in the present case where there was an express direction of this Court the Opposite Party No. 1 was bound to refer the dispute concerning OPLE Act to the sub-collector after which, an aggrieved party could've availed the appellate or revisionary provisions under the Act. By taking upon itself to pass appropriate directions under the OPLE Act, the Opposite Party No. 1 has gone beyond the terms, provisions and intent behind the legislation and has left the Petitioner remedy-less.

Q. BECAUSE it is settled that where the statute provides a thing to be done in a particular manner, it has be done in that manner and in no other manner. It is submitted that if a statute has conferred a power and has laid down the method in which that power has to be exercised, as in the present case under section 12

of the OPLE Act, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. In view of the law, Order dated 23.03.2019 passed by the Opposite Party No. 1 making directions inter alia falling within the realm of OPLE Act stands completely infructuous and deserves to be set aside, as Opposite Party No. 1 was not authorised to have passed the said direction of direction Opposite Party No. 2 to withdraw permission granted to the Petitioner vide letter dated 22.07.2011 and collect government dues as per provisions of the OPLE Act. It is submitted that the case of encroachment is to be strictly dealt with the Tehsildar, Sub-Collector, Collector and Revenue District Commissioner (under power of suo motu calling of records). Therefore, the said order dated 23.03.2019 is ex-facie illegal and in contravention of OPLE Act.

R. BECAUSE the Permission Letter dated 22.7.2011 was accorded to the Petitioner after conducting a detailed Enquiry and the Petitioner was bound to strictly adhere to the Notification of the Central Government concerning Fly-Ash Utilisation. The said permission having been accorded in strict compliance with law, it doesn't lie in the mouth of the Opposite Party No.1 to

hold that the said Permission Letter is non-valid had has been granted illegally. It is submitted that the District Administration, in its wisdom granted fly ash filling activities in the said Plot and thereafter the Petitioner acquired the said Plot through IDCO for carrying out the said activities. It is therefore submitted that the Opposite Party No. 1 has failed to take into account the material facts on record and has passed a cryptic order.

S. BECAUSE there is no violation of Forest Conservation Act, 1980 and the said plot where the Ash Filling Activities have been carried out has the sanctity of approval of the District Forest Officer, Jharsuguda, who conducted a joint inspected in the year 2015 and found that the Petitioner has carried out vast scale afforestation and complete filling has been done. It is therefore submitted that the Opposite Party No. 1 in a belated manner is seeking to intervene on an issue which is non-est and has passed an order which is arbitrary, illegal and in complete contravention of the facts of the case.

T BECAUSE the said revocation order would put forth a question as to the legality with respect to the ash-

filling activities which were carried out under the express mandate of approval of the District Administration and in complete bona-fide belief that the permissions were accorded by the Respondents as per provisions of the law.

- II. BECAUSE the Opposite Party No. 1 failed to realise that the Court of Sub-Collector has adjudicated on the issue threadbare and has even conducted site inspection following which it was held that there has been no encroachment done by the Petitioner; therefore the Appeal case was allowed.
- V. BECAUSE the Opposite Party No. 1 and 2 have failed to take into account the fact that the Petitioner has taken all measures to control fugitive emissions, compact the dyke with 500 mm of soil and has under afforestation on the Plot.
- W. BECAUSE the Opposite Party No. 1 has fallen in grave error to hold that complete 246.74 acres is forest land and is being used for non-forest purposes. It is submitted that as per the Joint Enquiry Report conducted by the Revenue and Forest Officials, it was revealed that Plot No. 188 (48.68 Acres) which is

Kissam-Gramya Jungle is surrounded by Ash pond of the Petitioner and all plots contiguous to Plot No. 188 have been acquired by the Petitioner. It is submitted by the Petitioner that it has undertaken extensive plantation over the concerned land and the same is now developing into a forest. In light of the same, the question of alleged illegality being committed in respect of illegal construction of ash pond cannot arise under any circumstances.

X BECAUSE the Opposite Party No. 1 and 2, being state under Article 12 are mandated to act in a fair manner. By passing an order severely affected the rights of the Petitioner, based on half-baked facts and evidence. Opposite Party No. 1 has performed dereliction in his duties and the same deserves to be condemned.

34. That other grounds, if any, shall be urged at the time of hearing. The Petitioner reserves its right to add, alter or amend the present writ application if necessary.

35. That the Petitioner has no other adequate alternative and efficacious remedy and therefore have

approached this Hon'ble Court for seeking equitable and appropriate relief by filing the present writ application before this Hon'ble Court.

36. That this Application is made bona fide and in the interest of justice.

P R A Y E R

In view of the above facts and circumstances, it is therefore most respectfully prayed that your Lordship be graciously pleased to:

- i) admit the present writ application; and
- ii) Issue a rule NISI in the nature of certiorari and/or a writ in the nature of mandamus, and/or any other appropriate writ, direction or order quashing Order (Bearing Ref. No. RDM-LEGAL-CASEHC-002-2019/9542 R& DM) dated 23.03.2019 issued by Principal Secretary, Government of Odisha, Revenue and Disaster Management Department as being arbitrary, unconstitutional and illegal; and

iii) Issue a rule NISI in the nature of certiorari and/or a writ in the nature of mandamus, and/or any other appropriate writ, direction or order quashing and setting aside Order No. 3054 of the District Office, Jharsuguda (Revenue Section) dated 04.03.2019 being erroneous, illegal and completely arbitrary; and

iii) Issue a rule NISI in the nature of certiorari and/or a writ in the nature of mandamus, and/or any other appropriate writ, direction or order quashing the Memo No. 3970 issued by District Office, Jharsuguda (Revenue Section) dated 22.06.2019 as being arbitrary, unconstitutional and violative of Article 14 ; and

iv) Issue a rule NISI in the nature of certiorari and/or a writ in the nature of mandamus, and/or any other appropriate writ, direction or order holding the actions of Opposite Party No. 1 and 2 as being arbitrary, unconstitutional and in violation of Article 14; and/or

v) Issue any such other writ/order/direction as this Hon'ble Court may deem it fit and proper and for this act of kindness the petitioner shall as in duty bound ever pray.

Cuttack

ADVOCATE

Date: 17 .09 .2019

For the petitioner

AFFIDAVIT

That I. Nabal Kishor Sharma aged about 41 years, son of Shri Amarchand Sharma, residing at HC-102, Vedanta Township, Bhurkhamunda in the District of Jharsuguda in the State of Orissa do hereby solemnly affirm and state as follows:

1. That I am the Head-Legal and authorized Attorney of the Petitioner Company and duly authorized by the Petitioner Company to swear this affidavit on its behalf
2. That the facts and submissions as stated in this petition and its annexure are true to the best of my knowledge and belief and are based upon original records, which I believe to be true.

Identified by

Advocate

Nabal Kishor Sharma

DEPONENT

Certificate

Certified that due to non-availability of cartridge paper this petition has been typed in thick white papers.

Cuttack

Date: 17.09.2019

ADVOCATE

 E-COURTS HIGH COURTS OF INDIA	
High Court of Orissa	
Back	
High Court of Orissa	
Case Details	
Case Type	WP(C)
Filing Number	17332/2019
Registration Number	17332/2019
CNR Number	ODHC01-061739-2019
Filing Date	18-09-2019
Registration Date	20-09-2019
Case Status	
First Hearing Date	-
Next Hearing Date	-
Stage of Case	-
Coram	2924MR, JUSTICE BISWANATH RATH
Bench	Division Bench
State	ORISSA
District	Jhansuaguda
Judicial	Civil Section
Causelist Name	Weekly Daily
Short Order	ADJOURNED
Not Before Me	-
Petitioner and Advocate	
1) VEDANTA LTD.	
Advocate- M/S PRASHANTA KUMAR NAYAK, K. MOHAPATRA, S. S. MISHRA, S. N. DASH	
Respondent and Advocate	
1) STATE OF ORISSA	
2) COLLECTOR	
3) SUB-COLLECTOR	
4) TAHASILDAR	
5) REVENUE DIVISIONAL COMMISSIONER	
Acts	

**IN THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO. 200 Of 2025

IN THE MATTER OF:

Digambar Bag

..... Applicant

-VERSUS -

State of Odisha & Ors.

..... Respondents

VAKALATNAMA

I, Satyapriya, S/o Shri Arvind Shankar Singh, aged about 49 years am the Authorized Signatory for M/s Vedanta Limited, Core-6, 3rd Floor, Scope Complex, 7, Lodhi Road, New Delhi-110003., DEFENDANT / RESPONDENT/ PETITIONER /OPPOSITE PARTY, in the above application/ suit/appeal/petition/ reference do hereby appoint and return EISHA KRISHN / MANSI BACHANI / GITANJALI SANYAL/ SHUBHAM UPADHYAY/FIZZA ZAIDI/SURYA GUPTA/SATVIKA KRISHNAN/ANUKRITI BAJPAI/ANUBHAV ANAND Advocates of the National Green Tribunal, to act and appear for me/us in the above application/ suit/petition/appeal reference and on my/our behalf to conduct and prosecute or defend or with draw the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review to file and obtain return of documents and to deposit and receive money on my / our behalf in the Application/Suit/Petition/Appeal reference and application for Review, and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/We agree to ratify all acts done by the aforesaid advocate, in pursuance of this authority.

Dated this the _____ day of December, 2025

For Vedanta Limited

Satyapriya
Authorized Signatory

Accepted Identified By

Mkannu
D/1857/2018
Advocate,

Shubham
D/4525/2018

(Petitioner (s) / Appellant (s)

Respondent (s) / Defendant(s) / Opposite Party

MEMO OF APPEARANCE

To,

The Registrar,
National Green Tribunal
Principal Bench, Delhi

Sir,

Kindly enter my appearance in the above matter on behalf of the Petitioner / Appellant / Respondent/Caveator.

Dated: .12.2025

Shubham
D/4525/2018
Mkannu
D/1857/2018
Advocate for the

Petitioner(s)/Appellant(s)/Respondent(s)

29, Nizamuddin East, Presidential Estate, (Lower Ground Floor), New Delhi-110013

Tel.: +91-11-40573181 E-mail: eldflegal@gmail.com





Service - Reply of M/s Vedanta in OA 200 of 2025 - Digambar Bag v. State of Odisha & Ors.

ELDF <eldflegal@gmail.com>

Mon, Dec 22, 2025 at 1:04 PM

To: Sankar Pani <sankarprasadpani@gmail.com>

Cc: Mansi Bachani <mansi@eldfindia.com>, Gitanjali Sanyal <gitanjali@eldfindia.com>, "anubhavanand200201@gmail.com" <anubhavanand200201@gmail.com>

Bcc: Sanjay Upadhyay <su@chambersofsanjayupadhyay.com>

Dear Sir/Ma'am,

This is regarding the O.A. No. 200 of 2025 titled Digambar Bag v. State of Odisha & Ors. which is listed for admission on 23.12.2025 before the Hon'ble Eastern Zonal Bench of the NGT at Kolkata.

With regard to the above, kindly find attached the Response of M/s Vedanta in view of the Order dated 09.12.2025 in the above-captioned matter.

You are requested to kindly confirm receipt of the same as a response to this mail.

Thanks & Regards

--

Fahimul Hassan

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph. No. 011-40573181

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