

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**O.A. 155/2021**

**With**

**I.A. No.101 /2021**

**IN THE MATTER OF**

**Sh. Kondru Maridiyya**

**.....Petitioner**

**Vs.**

**State of Andhra Pradesh & others & Ors.**

**...Respondent(s)**

**AFFIDAVIT ON BEHALF OF UNION OF INDIA THROUGH**  
**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE**  
**(RESPONDENT NO. 2 )**

1. I Shanmugam Elamurugannan, S/o Late Appavu Shanmugam aged 45 years, working as Assistant Inspector General of Forests in Ministry of

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Environment, Forest and Climate Change (hereinafter referred as 'MoEF&CC'), and as such I am fully aware of the facts and circumstances of the case from the relevant records available in this office. I further state that the present affidavit is being filed after perusing the office records, which to my knowledge are true and correct, and I am authorized to file this affidavit on behalf of the Respondent No. 2 (MoEF&CC).

2. That I have perused the contents of the petition filed by the petitioner and I am duly authorized to depose by way of the present affidavit. At the outset, I deny all the averments by the petitioner except those that are specifically admitted here in.
3. It is humbly submitted that in case the Hon'ble Court desires technical/specialized information, an expert from the Ministry can be produced subject to the direction of the Hon'ble High Court.

### **Statement of Facts**

1. It is humbly submitted that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, inter alia, being the repository of land records, State Government has the



primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned judgements and directions of the Hon'ble Supreme Court.

2. That to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto, the Parliament in the Thirty-First Year of the Republic of India enacted the Forest(Conservation) Act, 1980 ("FC Act", for short). FC Act came into force on 25th October, 1980.
3. That section 2 of the Forest (Conservation) Act, 1980 ('FC Act', for short) provides that;

*"Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-*

- i. that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;*



ii. *that any forest land or any portion thereof may be used for any non-forest purpose*”

iii. *that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned managed or controlled by Government;*

iv. *that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation.*

4. It is submitted that the Hon'ble Supreme Court vide interim order dated 12.12.1996 in W.P.No.202/95 has issued explicit directions for cessation of all non-forestry activities going on in forest area without prior approval of Central Government. The Apex Court vide order referred to above has stated that the word “Forest” must be understood according to its dictionary meaning and also the term ‘forest land’ occurring in Section ‘2’ of Forest (Conservation) Act, 1980 will not only include ‘forest’ as understood in the dictionary sense, but also any area recorded

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as forest in the Government records irrespective of ownership or classification thereof.

5. It is submitted that the answering respondent vide letter dated 03.09.2021 has requested the State Government to clarify whether the mining area involved in the instant matter is a forest land or not. The reply from the State Government is awaited. Copy of the letter dated 03.09.2021 is placed as **Annexure-R**.

#### **PARAWISE REPLY TO THE FACTS**

1. It is submitted that the contents of Para No.1-2 are matter of record, hence require no comments.
2. In reply to the contents of Para No.3, it is submitted that prior permission of Central Government under Section-2 of the Forest (Conservation) Act, 1980 is required for use of forest land for non-forestry purpose. It is submitted that the office of this answering respondent has not received any proposal under section 2 of Forest Conservation Act, 1980, for mining of Laterite mineral over an extent of 121 hectares in forest lands situated in Un- Surveyed Hill Poramboke (USHP), adjoining Reserve Forest areas of East Godavari district, Bhamidikaloddi village, Hamlet of Sarugudu Gram Panchayat, Nathavaram Mandal, Visakhapatnam district,



Andhra Pradesh. However, Environmental Clearance was accorded by the answering respondent for opencast Laterite mining with proposed production of 1.0 MTPA (ROM) of Laterite by M/s J.Lakshmana Rao., located at village Bhamidika, teshil Nathavaram, Visakhapatnam District, Andhra Pradesh vide Letter Number.J-11015/379/2010-IA.II (M), dated 17<sup>th</sup> November, 2014. As per the said approval/ clearance, the mining lease area is 121.0 hectares, which is an Un- Surveyed Hill Portion (Gap Area Government Land). However, the answering respondent vide letter dated 03.09.2021 has requested the State Government to clarify whether the mining area involved in the instant matter is a forest land or not. The reply from the State Government is awaited. Copy of letter dated 17.11.2014 is placed as **Annexure-R1**.

3. In reply to the contents of Para No.4-9, it is submitted that averments are to be confirmed by the State Government, hence no comments to offer from answering respondent.
4. It is submitted that the contents of Para No.10 are matter of facts, hence require no comments.
5. In reply to the contents of Para No.11 and 12, it is submitted that averments to be confirmed by State Government, hence no comments to offer from answering respondent.



6. In reply of to the contents of Para No. 13, it is submitted that the answering respondent has no comments to offer.
7. In reply to the contents of Para No.14 it is submitted that averments to be confirmed by the State Government, hence no comments to offer from answering respondent.
8. In reply of to the contents of Para No. 15, it is submitted that the answering respondent has no comments to offer.
9. In reply to the contents of Para No.16 it is submitted that averments to be confirmed by State Government, hence no comments to offer from answering respondent.
10. In reply of to the contents of Para No. 17, it is submitted that the answering respondent has no comments to offer.
11. In reply to the contents of Para No.18-21 it is submitted that averments are to be confirmed by the State Government, hence no comments to offer from answering respondent.
12. In reply to the contents of Para No. 22-24 it is submitted that averments are matter of record and require to be confirmed by the State Government, hence no comments to offer from answering respondent.



13. In reply to the contents of Para No. 25-36, it is submitted that averments need to be verified by the State Government, hence no comments to offer from answering respondent.

14. It is submitted that the contents of Para No. 37-38 are matter of facts, hence require no comments.

15. That, the answering respondent reserves the right to file additional information before the Hon'ble Tribunal, if required till Pendente-lite.

16. Thus in light of the above submissions, it is most humbly prayed that this Hon'ble High Court may kindly pass such order(s) as deemed fit and proper in the facts and circumstances of the case.

  
DEPONENT

#### VERIFICATION:

I, the above named deponent do hereby verify that the contents of the above affidavit are true and correct to my knowledge and are based on official records and nothing material is concealed therein.

Verified at Bengaluru on this 09<sup>th</sup> Day of November, 2021.

  
DEPONENT

एस.इलमुरुगन्नन, भा.व.से.,  
S. Elamurugannan, I.F.S.,  
सहायक वन महानिरीक्षक(केन्द्रीय)  
Assistant Inspector General of Forest (C)  
भारत सरकार/Government of India  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
Ministry of Environment, Forest and Climate Change  
एकीकृत क्षेत्रीय कार्यालय/Integrated Regional Office  
विजयवाड़ा/Vijayawada