

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH CHENNAI
MEMORANDUM OF APPLICATION

O.A. No.65 of 2020

(Under Section 18 r/w Section 14 and Section 15 of the National Green Tribunal Act,
2010)

IN THE MATTER OF:

Satyanarayana Bolisetty,
1-54-10/4, Plot-50, HIG, Sector-1,
M V P Colony,
Vishakapatnam Urban,
Vishakapatnam,
Andhra Pradesh-530 035.
Bolisetty satyanarayana@ gmail.com

..... Applicant

Versus

1. Union of India
Through the Secretary,
Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhawan,
Jorbagh Road,
New Delhi-110 003.
Secy-moef@gmail.in: +91 11 24695262 and 6 others Respondents

COUNTER FILED BY THE 4TH RESPONDENT

DATE-02-08-2022



M/s MADHURI DONTI REDDY
ADVOCATE

STANDING COUNSEL FOR GOVERNMENT OF ANDHRA PRADESH
A.P. POLLUTION CONTROL BOARD
T.T.D. SUPREME COURT OF INDIA

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Counsel for 4th Respondent

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Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhawan,
Jorbagh Road,
New Delhi-110 003.
Secy-moef@gmail.in: +91 11 24695262
2. State of Andhra Pradesh
Through the Chief Secretary,
Building # 1, 1st Floor,
Interim Government Complex, AP Secretariat,
Velagapudi, Guntur,
Andhra Pradesh – 500 022,
cs@ap.gov.in: 0863 2446637.
3. Andhra Pradesh Forest Department,
Though the Principal Chief Conservator of Forests and
Head of Forest Forces,
AranyaBhavan, K.M. Munshi Road,
Nagarampalem, Guntur-522 004,
Andhra Pradesh.
Prfccfhfapfd@ap.gov.in: 0863-2377511.
4. The District Collector, East Godavari District,
Kd-Collectorate, East Godavari District,
Andhra Pradesh – 533 001.
rdoredm@nic.in: 0884-2365424.
5. The District Forest Officer, East Godavari District,
Beside Collector's Bungalow, Madhava Nagar,
Kakinada, Andhra Pradesh-533 003.
dfokknd@gmail.com: 0884-2343339.



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Kakinada District, Kakinada

6. Andhra Pradesh Coastal Zone Management Authority,
Through the Chairman,
D.No.33-26-14 D/2, Near Sunrise Hospital,
Pushpa Hotel Centre,
Chalamvari Street, Kasturibaipet,
Vijayawada – 520 010.
Apczma2016@gmail.com; 0866-2463200.
7. Kakinada Seaport Ltd.,
Through the Chairman & Managing Director,
1st Floor, D. No.54-14/8-36,
Plot No.17, Road No.2,
Bharathi Nagar,
Vijayawada, Kishna District,
Andhra Pradesh-520 002/
mailhyd@kakinadaseaports.in; 0866 2473747. ... Respondents

COUNTER AFFIDAVIT FILED BY THE 4TH RESPONDENT

I, Dr.Kritika Shukla, I.A.S., Wife of Humanshu Shukla, aged 33 years, Occ: Collector and District Magistrate, Kakinada District, Kakinada, do hereby solemnly affirm and sincerely state as follows;

1. I am the 4th Respondent herein and I have gone through the contents of the Application together with its appendices and also the various material papers and relevant documents connected to the subject matter of the instant O.A, and as such I am well acquainted with the facts of the case.

2. At the outset, I submit that on going through the contents of the application herein and the material available on record and also the state of affairs on ground on the issue which relate to utilization of Government land in Kakinada City for the purpose of allotment of House sites and the consequential development of Infrastructure meant for the social and comfort living of the people, I hereby deny all the averments and allegations against the Official Respondents in the present O.A. except those which are specifically admitted hereunder;

3. The brief facts of the case is as follows:

(a) Sri Bolisetty Satyanarayana resident of MVP colony, Vishakhapatnam, has filed O.A.


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No.65 of 2020 before the Hon'ble National Green Tribunal, Southern Zone Bench, Chennai regarding development of land in survey No.374, 376, etc., of Dummulapeta, Kakinada Urban Mandal for providing house sites to weaker sections under "Navaratnalu Pedalankarikiillu" scheme.

(b) The Government of India has launched Pradhan Mantri Awas Yojana (Urban) Mission on 25th June 2015 which intends to provide housing for all in urban areas by year 2022. The Government of Andhra Pradesh aimed to implement this mission under the flagship program of "Navaratnalu-Pedalandarakiillu" program so as to distribute 25 lakhs house site pattas to all the eligible poor beneficiaries (Weaker sections) residing in Rural and Urban areas of the State in saturation mode irrespective of caste, creed or religion.

(c) Accordingly, for this programme, the Government issued G.O. Ms. No.510, Revenue (Lands-1) Department, dated 30.12.2019 instructing to utilize the Government lands which were alienated in favour of private individuals/ private organizations /Government organisations/ Government Departments/ public sector undertakings/ State Government Corporations, which were not utilized for the intended purpose or violated the conditions of alienation etc, besides the lands acquired by various departments for any public purpose but not put into use for the said purpose.

(d) The Government in their G.O. Ms. No.57, Revenue (Assn.I) Department, dated 16.02.2015 has authorized the District Collectors to resume the unutilized Government lands on the grounds of violation of conditions or non-utilization of the allotted land which were earlier alienated to various departments/private individuals.

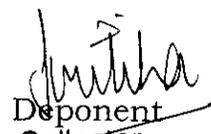
(e) It is pertinent to mention that the Government of India has declared Kakinada town as Smart City. The population of Kakinada town is around 4 lakhs. There are so many poor people living without shelters/houses.


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- (f) After comprehensive enquiry and verification has been done to identify eligible beneficiaries (weaker sections) for sanction of house sites, nearly 31,505 eligible beneficiaries in Kakinada Urban Mandal have been identified for grant of house sites.
- (g) It is submitted that a detailed inventory on availability of Government lands, unutilized vacant departmental lands from all the sources has been made and land audit has been conducted with all departments to reconcile the stage of these lands.
- (h) As the surroundings of the Kakinada are mostly urbanized, it is very challenging to acquire huge extent of lands. It is also not affordable to go for land acquisition as the rates in the surroundings are very high and it is not advisable to go for acquisition of land in huge extents in cities/towns based on certain aspects.
- (i) On the representations of the public representatives, the District and Divisional level officers have identified and found that there is a land measuring Ac.116.81 cents in T.S. No.376 (part), 375/1, 1985 (part) and 2004 (Part), etc., of Suryaraopeta Village, Kakinada Urban Mandal of Port Department which is kept vacant and unutilized since long time.
- (j) As per the Town Survey Field Register (TSFR), the above lands are classified as Ayan-Poramboke and during the year 1978 these lands were transferred to Port Department for expansion of Kakinada Port and port-based industries. The Port Department has not taken any action to develop these lands since 1978/1979. The proposed lands are also very nearer to developed town. Hence, the revenue authorities have identified these lands for providing house sites to the eligible beneficiaries under "NavaratnalupedalankarikiIllu" scheme as there is no sufficient Government land in the vicinity to cater the need of the beneficiaries.
- (k) The petitioners in their affidavit mainly stated that the action of the


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respondents in deforesting the Mangrove Forest and development of lands in survey No.374, 376, etc., of Dummulapeta, Kakinada Urban Mandal for providing house sites under "Navaratnalu Pedalankarikillu" scheme is in contrary to the guidelines issued for containment of COVID-19 epidemic and contrary to Coastal Regulation Zone Notification, 2011 and requested the Hon'ble Tribunal to direct the respondents to stop the activities including deforestation of Mangroves and to protect ecological balance and marine life and families depended on them.

(l) In this regard, the land in question does not belong to Forest Department and so the question of deforesting of Mangrove forest does not arise. The Port Department is also not utilizing the land for its bonafide purpose and the port authorities are allotting these vacant lands to the private individuals on lease basis.

(m) As per the revenue records, i.e. Town Survey Field Register (TSFR), the lands are classified as Ayan-Poramboke belonging to the Port Department.

(n) Developing the subject lands into Housing colony, not at all affects the livelihood of the fishermen and there is a canal existing for the fishermen to have ingress and egress into the sea.

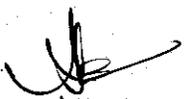
(o) Most of the subject land is located adjacent to the developing town area and are highly susceptible for encroachments and very difficult to protect. It is also becoming burden to the Government/Port Department to protect these lands from unauthorized encroachments.

4. In reply to the averments made 1 and 2 of the affidavit it is submitted that the Government of India has launched Pradhan Mantri AwasYojana (Urban) Mission on 25th June 2015 which intends to provide housing for all in urban areas by year 2022. The Government of Andhra Pradesh aimed to implement this mission under the flagship program of "Navaratnalu – Pedalandarakiillu Program" so as to distribute 25 lakh house


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sitepattas to all the eligible poor beneficiaries (weaker sections) residing in rural and urban areas of the State in saturation mode irrespective of caste, creed or region. It is pertinent to mention that the Government of India has declared Kakinada town as Smart City. The population of Kakinada Town is around 4 lakhs. There are so many poor people living without shelter/houses. After comprehensive enquiry and verification has been done to identify eligible beneficiaries (weaker sections) for sanction of house sites, nearly 31,505 eligible beneficiaries were identified in Kakinada Urban Mandal for grant of house sites. It is to submit that a detailed inventory on availability of Government lands, unutilized vacant departmental lands from all the sources has been made and land audit has been conducted with all departments to reconcile the status of these lands. On the representations of the public representatives, the District and Divisional Level Officers have identified and found that there is a land measuring Ac.116.81 cents in T.S. No.376 part, 375/1, 1985/part and 2004/part of Suryaraopeta village, Kakinada Urban Mandal of Port Department which is kept vacant and unutilized since long time. As per the Town Survey Field Register (TSFR), the above lands are classified as Ayan – Poramboke and during the year 1978 these lands were transferred to Port Department for expansion of Kakinada Port and Port based industries. The Port Department has not taken any action to develop these lands since 1978/1979. The proposed lands are also very nearer to developed town. Hence, the Revenue authorities have identified these lands for providing house sites to the eligible beneficiaries under “Navaratnalu – Pedalankarikiillu” scheme as there is no sufficient another Government land in the vicinity to cater the need of the beneficiaries. It is a fact that Government of Andhra Pradesh intended to allot or utilize an extent of about 100 Acres of Government land for the purpose of Housing scheme being the intention and policy of the Government to provide house sites to all the poor people under the scheme titled as “Pedalandarikiillu”. It is submitted that the land is located in Kakinada Urban Mandal and very much away from the Sea Shore whereas the Coringa Wildlife Sanctuary



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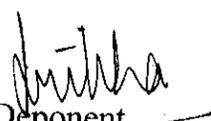
is located in Tallarevu Mandal. Similarly the Mangroves forest is also located in Tallarevu Mandal only and perhaps, the Applicant must not have known these facts and must have on assumptions only, filed the present O.A., alleging endangering the existence of the Wildlife Sanctuary and violation of Wildlife Protection Act 1972 etc.,

5. In reply to the averments made in paragraph 3 and 4 of the affidavit, it is submitted that as contended by the petitioner, the land situated in Kakinada Urban Mandal is not a notified forest land. Therefore, the question of de-forestation of mangrove forest does not arise as the land is classified as Ayan – Poramoke belonging to Port Department in the TSFR (Town Survey Field Register). As the Government has announced the launch date of distribution of house sites to weaker sections on Ugadi i.e. March 25th the development works in the subject lands were in progress upto March 24th i.e. announcement of lockdown with effect from 25th March 2020. The Port Department is also not utilizing the land for its bonafide purpose and the Port authorities are allotting these vacant lands to the private individuals on lease basis..

6. In reply to the averments made in paragraph 5 of the affidavit, it is submitted that the contentions of the petitioners isnot correct. The claim of the petitioner in saying that this area as a very breeding ground is an exaggeration and the loss of livelihood to traditional fishermen is negligible as there are no fishermen solely dependent on this area for fishing, there is no obstruction to fishermen for ingress and egress into the sea for the purpose of fishing as the creek is not disturbed in any way while developing the land for house. In this aspect, it is respectfully submitted to this Hon'ble Tribunal that there is Fisheries Department to look after and protect the traditional fishing by the Fishermen besides protecting the flourishing fish/shrimp/crab breeding and all other allied activities and also to look after the Welfare of the Fishermen community through a large number of Welfare activities.

7. In reply to the averments made in paragraph 6, of the affidavit, it is submitted that


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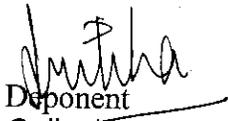
contentions of the petitioners are not correct. It is submitted that the A.P. Maritime Board, Kakinada informed that 183 number of allotments were given to the various agencies such as M/s GMR, since 1980 and also Housing programme has been taken-up in the said lands by the Housing Department (APTIDCO). The Port based industries have been established and the development of the area has been done right upto the shoreline which includes office buildings, godowns, wharfs and industrial establishments. The Municipal Corporation, Kakinada has also provided water facility for the said establishments. There is a build-up area of 50% I may add at this juncture that as observed in this para by the applicant, that it is a fact mangroves provide livelihood and also protection from naturally occurring phenomenon viz., cyclones and Tsunamis, provided Mangroves afforestation is in existence or taken place immediately-near to the sea coast watered area. It is reiterated that the land in issue ie., 100 acres of Government land is located far away from the sea-coast watered area thereby it is not all relevant to the land meant for Housing Development..

8. With regard to the averment made in paragraph 7 of the affidavit is denied as false. It is submitted that the petitioners narrated the judgments of different courts regarding Forest Conservation Act, 1980 etc. It is submitted that the observations of the Apex Court in various decided and reported cases which are to be followed by everyone in letter and spirit.

9. In reply to the averments made in paragraph 8 of the affidavit it is submitted that the land is not a notified reserve/protected forests. The contention of the petitioner is not at all tenable and correct. The said lands do not come under the purview of the Forest Conservation Act, 1980 or Indian Forest Act, 1927.

10. In reply to the averments made in paragraph 9 of the affidavit it is submitted that as per the report of the Divisional Forest Officer, Wildlife Management, Rajahmundry, the said area is at approximate distance of 02.76 kilometers from the boundary of Coringa Wildlife Sanctuary.


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11. In reply to the averment made in paragraph 10 of the affidavit, it is submitted that adjacent to this scheduled site on western side one housing colony was already constructed under 'Housing for All' scheme in T.S.Nos. 375/1A and 387/1, etc., in an extent of Acs. 47.00 Cts. and 2,720 beneficiaries are allotted flats in the Housing Colony. The entire port land falls in the Kakinada Municipal Corporation limits and on the eastern side of the proposed land for houses sites under "Pedalandariki Illu" scheme there are certain buildings like port main office building and godowns of Port Department and also 3 B.T. roads with a width of 150 feet and 100 feet with infrastructure. Further, the entire land is allocated for house sites to the urban poor and more over the majority of beneficiaries are of fishermen community only. It is submitted that the claim of the petitioner in saying that this area as a very breeding ground is an exaggeration and the loss of livelihood to traditional fishermen is negligible as there are no fishermen solely dependent on this area for fishing, there is no obstruction to fishermen for ingress and egress into the sea for the purpose of fishing as the creek is not disturbed in any way while developing the land for house sites. There is no violation of the findings of the Hon'ble Supreme Court of India. The land covered under the present OA. is far away from the sea-coast and vacant government land proposed for providing housing to the poor people, especially fishermen community who needs housing and the present land is convenient to venture into the sea for their livelihood.

12. In reply to the averments made in paragraph 13 of the affidavit, it is submitted that this respondent is always dealing with the grievances received through representations and the same are dealt in a proper way.

13. In reply to the averments made in paragraph 14 of the affidavit, it is submitted that on ground there is no Mangrove forests in that land as alleged by the petitioner. Further a creek of 120 feet width is existing on ground and without disturbing the creek, a tentative layout as per G.O. Ms. No.94 dated 31.01.2020 was formed, without touching /disturbing


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the creek, for allotment of house sites to the urban poor under "Pedalandarikiillu" scheme. Further reported that the entire extent belongs to Government only and as per the sanctioned master plan of Kakinada Municipal Corporation the entire land is classified as port land not a forest land as alleged by the petitioner.

14. It is further humbly submitted that this respondent reserves the right for filing of Additional Counter Affidavit or any other document or documents if need and if so advised to do so.

15. In the above said circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Original Application No.74 of 2021 and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.


Deponent
Collector
Kakinada District, Kakinada

Solemnly affirmed at Kakinada on this
the 25 day of May, 2022
Before me


Attestor
SUPERINTENDENT (LAND),
Collectors Office, Kakinada

VERIFICATION

I, Dr.Kritika Shukla, wife Of Himanshu Shukla, aged 33 years, R/o. Kakinada, Occu: District Collector, Kakinada district do hereby verify and state that the contents of the above affidavit are true to the best of my knowledge, belief, information and as per records.

Hence, verified on this the **25** day of May, 2022.

Advocate


Deponent
Collector
Kakinada District, Kakinada