

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE BENCH, CHENNAI  
ORIGINAL APPLICATION NO. 87/2022**

**IN THE MATTER OF:**

Mohaque Mehra

...APPLICANT

Versus

State of Karnataka and Others

...RESPONDENTS

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**REPORT ON BEHALF OF RESPONDENT NO. 1**

**MOST RESPECTFULLY SHOWETH:**

1. The instant Original Application has been filed pertaining to non-forest activity and encroachment upon forest land at Survey No. 128 of Abbana Village, Hassan District, Karnataka. The instant report is being in compliance of the order dated 09.02.2024, wherein it was directed as follows:

*“11. If the allotment of 03 Acres and 20 Guntas originally intended for the forest dwellers was cancelled, it is only with an intention to preserve the forest and not allow encroachers to occupy and carry on non-forest activities. We only express our displeasure in this regard in a way the authorities have been negligent in their duties.*

*12. Let the 1st Respondent who is the Principal Chief Conservator of Forests (Head of Forest Force) enquire into the same and file a separate report in this regard.”*

2. It is submitted that in compliance with the above direction of this Hon'ble Tribunal, the answering Respondent visited the concerned

village in Hassan district and enquired into the matter on 02.03.2024 with Revenue and Forest Officials, including the Deputy Commissioner, Hassan, the Assistant Commissioner, Sakaleshpur sub-division, the Deputy Conservator of Forests, Hassan, the Assistant Conservator of Forests, Hassan sub-division and their subordinates.

3. The information received by way of the said enquiry is stated as follows:
4. The land bearing Survey No. 128 in Abanna village, K. Hosakote Hobli, Alur taluk of Hassan district, as per the Record of Rights and Tenancy (RTC) document, measures 70 Acres 32 Guntas (40 Guntas =1 Acre). As per the RTCs of different years of the said land provided by the Assistant Commissioner, Sakaleshpur sub-division, it is noticed that the said land is a "Gomala" land (pasture land) in control of the Revenue Department from at least 1964-65 to 1994-95.
5. However, in the year 1992-93, vide order no. LND (3) 142/92-93 dated 10.09.1992 passed by the Deputy Commissioner, Hassan, an extent of 3 Acres 20 Guntas of land in this survey number was reserved for Ashraya Housing Scheme, which intended to provide 96 housing sites of 40 feet X 30 feet size to the economically weak families with financial help to construct housing units for them.

6. Accordingly, 96 housing sites of 40 feet X 30 feet size were made and Pattas (Hakku Patras) were made for the same. The Pattas mentioned that it pertained to right over a site of 40 feet x 30 feet in Survey No. 128 of Abanna village. Subsequently, vide order no. LND (3)328/93-94 dated 15.04.1994 passed by the Deputy Commissioner, Hassan, it was directed that the Assistant Commissioner, Sakaleshpur should, amongst other things, send a proposal to cancel this reservation of 3 Acre 20 Guntas.
7. The process that was to commence with the said proposal of the Assistant Commissioner, Sakaleshpur, is not fully complete. It is for this reason that in Column 10 of the RTC of Survey No. 128, Abanna Village, valid from 04.03.2020, appended to the letter dated 05.09.2022 addressed by the Assistant Commissioner, Hassan, to the Hon'ble Registrar, National Green Tribunal, Chennai, the Ashraya Scheme reservation of land is reflected along with the details of the above mentioned 10.09.1992 order.
8. Further, vide mutation entry no. MR 23/95-96 (this appears in column 10 of the RTC of Survey No. 128 of Abanna village valid from 04.03.2020 appended to the addressed to the Hon'ble Registrar, National Green Tribunal, Chennai), an extent of 67 Acres 12 Guntas was mutated in favor of Forest Department.

9. During the course of the enquiry conducted by the Answering Respondent, the Assistant Commissioner, Sakaleshpur, provided a copy of page 21 the Mutation Register of Alur which has been attested by the Revenue Inspector, K Hosakote Hobli, Alur taluk and is dated 17.09.1996 under the signature of the attesting officer. It is seen in the said document that in Survey no. 128 of Abanna village, an extent of 83 Acres 00 Guntas (that seems to be the extent as per "Aakarband") is transferred to "Social Forestry Circle" for raising forest. Amongst others, one of the conditions imposed is that the land can be reverted back if needed for public or government purposes. It seems logical to infer that what has been transferred is the right to use the said land for a specific purpose while the ownership remains as before with Revenue department.
10. It is pertinent to note that the transfer is not in favour of "Forest Department" but the "Social Forestry Department". The latter falls in the administrative control of Hassan Zilla Panchayat. The difference lies in the fact that as the land is mutated and transferred to "Social Forestry Department," it does not qualify to be termed "forest" unless it falls within the botanical meaning of the said term. Whereas if the same was mutated and transferred to "Forest Department," it would be a land at the disposal/in control of Forest Department even if not

containing trees. Another difference is that officers of the "Social Forestry Department" do not have the power to evict encroachers under the Karnataka Forest Act, but those of "Forest Department" do.

11. Suffice it would to infer that based upon the mutations made of the 70 Acre 32 Guntas of land in Survey No. 128 of Abanna village, 67 acre 12 Guntas is in the possession of the "Social Forestry Department" and 3 Acre 20 Guntas in the possession of Revenue or Rural Development and Panchayath Raj (RDPR) department (the term RDPR is being used as it has been stated so in the letter dated 05.09.2022 addressed to the Hon'ble Registrar, National Green Tribunal, Chennai). The ownership, for the reasons stated above, remains with Revenue Department.
12. As regards the carving of 96 housing sites and readying of 96 Pattas (Hakku Patras) for these sites in 1992-93 as stated above, it is submitted on authority of letter no. LND 41/23-24 dated 02.03.2024 issue by the Tahsildar, Alur, to the Assistant Commissioner, Sakaleshpur, that 79 of the 96 original Hakku Patras are available with the office of the Tahsildar, Alur, whereas those of site numbers 31 to 39, 40, 45 to 49, 77 and 84 are not available. It may be so that the above site numbers may have been distributed to the intended beneficiaries even before the decision to get the Ashraya Scheme

cancelled. The said letter also states that the original Patta (Hakku Patra) was found available with the persons who are shown as encroachers in Annexure R-1 to the report dated 06.01.2024 filed by Respondent No. 4 herein at serial numbers 1 to 3, 7 and 8. However, it is seen that whereas the encroachers (1 to 3, 7 and 8 of mentioned at Annexure R-1 of report dated 06.01.2024) may be having the Pattas for 40 feet x 30 feet sites, but are now sitting in lands that other than was intended to be given (Block 16 of Annexure R-1 of report dated 06.01.2024). The encroachers are instead in a different location within Survey no. 128, and are occupying extents larger than that was there in the Patta.

13. It is humbly submitted that the events pertaining to reserving of land for Ashraya Scheme, its subsequent decision to cancel the reservation, giving of Pattas and its withdrawal are not totally entirely bereft of confusion. Particularly so in the case of more than the 5 or more Pattas that are known to have been actually given but less than 16 which are not available in the office of Tahsildar, Alur, and as may have been distributed.
14. It is submitted that the actual area within Survey No. 128 of Abanna Village, Alur taluk, that would fall under the term "encroachment" and under non-forestry is as tabulated in Annexure R-1 to the report dated

06.01.2024, except for the extent mentioned under Pond and Pathway, which would be equal to 07 Acre 29 Guntas and not 09 Acre 34 Guntas as stated in the report of Respondent 2 date 08.02.2024. However, the total extent under non-forestry use is 09 Acre 34 Guntas.

**Re: Letter addressed to this Hon'ble Tribunal**

15. It is submitted that vide letter dated 05.09.2022 addressed by the Assistant Commissioner, Hassan, to the Hon'ble Registrar, National Green Tribunal, Chennai, it has been stated that information about encroachment had been given by him to various officers of forest department "over telephone". This Hon'ble Tribunal has mentioned in the order dated 09.02.2024 as to why appropriate action was delayed after this information. As per the result of the enquiry regarding the same, it was stated by officers of forest department that the Range Forest Officer, Alur, had requested the Tahsildar, Alur, on 03.09.2022 to conduct a detailed survey and provide map of survey no. 128 so that Forest Offence Cases could be filed against each of the encroachers and summary proceedings for eviction commenced presuming erroneously that the transfer of 67 Acres 20 Guntas has been done in favor of "Forest Department" and not "Social Forestry Department". In order to pursue the cases, the complete and correct

location of each encroachment regarding location, extent and type of land use was needed. Criminal cases could not have been filed in a court of law or quasi-judicial eviction proceedings under Section 64 (A) of the Karnataka Forest Act, 1963, could not have been initiated on the basis of assumptions and approximations, without having the exact details. The required survey and map preparation was done on 25.10.2023. After the same, Forest Offence Cases (erroneously presuming the mutation and transfer of 67 Acres 12 Guntas has been done in favor of "Forest Department" and not "Social Forestry Department") bearing numbers 16 to 26 have been filed in the Court of the Hon'ble Judicial Magistrate, Alur, on 23.11.2023 and eviction proceedings have commenced. The same can be seen from Annexure 2 of the report dated 08.02.2024 filed by the Assistant Conservator of Forests, Hassan, before this Hon'ble Tribunal.

16. It is submitted that the Section 64(A) eviction proceedings under the Karnataka Forest Act, the next hearing is scheduled for 12.03.2024.
17. It is submitted that there are nine cases [namely LGC(P) 91 to 99 of 2022] filed by the Applicant herein against the alleged encroachers under the Karnataka Prevention of Land Grabbing Act, 2011, in the competent Court. It is submitted that the said Act deals with cases of land grabbing (encroachment) and provides for punishment for the

offence of encroachment. In the land grabbing cases, the Range Forest Officer, Sakaleshpur, has submitted a report to the effect that all the encroachments in the instant case are more than 3 kilometers from the Alur town Panchayat and thus, the cases have been disposed on the grounds that the lands in question did not fall within the jurisdiction of the Land Grabbing Special Court.

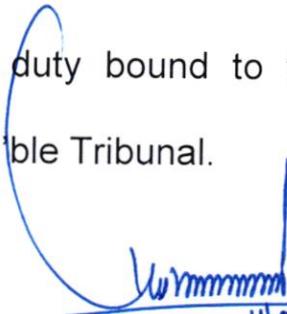
18. In the course of the enquiry, the answering Respondent tried to find out as to when the encroachments may have taken place. For this the Karnataka State Remote Sensing Applications Centre (KSRSAC) was approached and satellite images of Survey No. 128, Abbana Village were obtained. True Copy of satellite images of Survey No. 128 of Abbana Village, Hassan District are annexed herewith as **Annexure R1**.
19. It can be seen that before 1997, encroachments took place in block numbers 12 and 13 of the map in Annexure R1 of report dated 06.01.2024. After 2003, tree growth can be seen. Hence, the encroachments took place in block numbers 1,2,4 to 7 and 8 of Annexure R-1 to report dated 06.01.2024 between 1997 and 2003. Other blocks of the map Annexure R-1 seem to have been encroached between 2007 and 2017. Block 3 being very small is difficult to identify on the satellite images.

20. It can also be seen that whereas there was very little arboreal growth in the land up to 1997, by 2004 the area has had a good growth of trees. This is due to the plantations raised by the Social Forestry Department.
21. It is important to submit that the allotment of 03 Acres 20 Guntas of land intended for Ashraya Scheme house construction has not been cancelled as inferred by this Hon'ble Tribunal in Paragraph 11 of its orders dated 08.02.2024, but is in the process of being cancelled.
22. **Based upon the above, the answering Respondent's conclusions pursuant to the enquiry conducted in compliance with this Hon'ble Tribunal's order are as follows:**
  - A. The land bearing Survey no. 128 in Abanna village, K. Hosakote Hobli, Alur taluk of Hassan district was and remains even as on date as under the control of Revenue department.
  - B. In 1995, an extent of 83 Acres 00 Guntas (that seems to be the extent as per "Aakarband" but as per RTC 67 Acres 12 Guntas) was transferred to Social Forestry Department for raising plantations.
  - C. In the year 1992-93, 3 Acres 20 Guntas of land was reserved for Ashraya Housing Scheme and 96 housing sites and Pattas were made ready. Some Pattas were given too. The decision to cancel the reservation was taken but is yet to be fully given effect to.
  - D. Encroachments took place in 1997 and 2017.

E. Erroneously presuming the mutation and transfer of 67 Acres 12 Guntas has been done in favor of "Forest Department" and not "Social Forestry Department", officers of the Forest Department have filed criminal complaints against the encroachers and initiated eviction proceedings after receipt of the survey sketch from Land Records department on 25.10.2023.

23. It is hence submitted that now that the correct position with respect to the land in question has been ascertained, appropriate steps will be taken as per law to remove encroachments from the land in question.

24. This Hon'ble Tribunal may hence take the above submissions on record and the Respondent shall be duty bound to follow and implement any order passed by this Hon'ble Tribunal.

  
11/03/24.  
**Principal Chief Conservator of Forests**

**Government of Karnataka**

Principal Chief Conservator of Forests

(Head of Forest Force)

Aranya Bhavan, Malleshwaram,  
BENGALURU-3, KARNATAKA

**Date: 11.03.2024**



## Annexure R1

**Satellite Images of Survey Number 128,  
Abbana Village, Alur Taluk,  
Hassan District**

IRC-1997

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530 



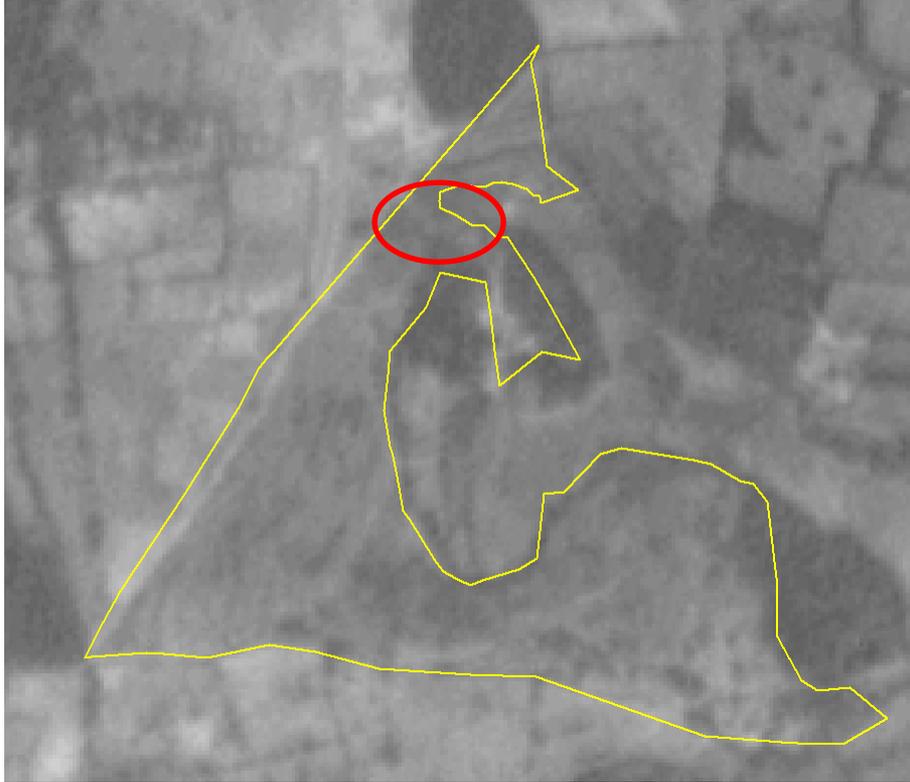
IRC-2003

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530



## IRC-1997



## IRC-2003



IRC-2004

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530 



IRC-2007

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530



LISS-IV-2018

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530 



LISS-IV-2019

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530 



WorldView-II 2017

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530 



WorldView-II-2023

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,530 



WorldView-II Image of 2023

Survey Number 128, Abbana Village, Alur Taluk, Hassan District

1:3,500

