

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONAL BENCH AT CHENNAI**

I.A. NO. 88 OF 2021

IN

O.A. No.129 OF 2021

IN THE MATTER OF:

Daniel Sukumardas

..... Applicant

Versus

Union of India &Ors.

.... Respondents

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NDoH: 06.09.2021

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Date: 04.09.2021

Place: New Delhi

DRAWN AND FILED BY:

**Sanjay Upadhyay, Eisha Krishn,
Mansi Bachani & TonyotGylatson**

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REPLY ON BEHALF OF RESPONDENT No.5 RAIL VIKAS NIGAM LIMITED

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal is presently seized of the above-mentioned OA No. 129/2021 filed by the Applicants for, inter alia, the apprehension of tree felling that would be allegedly illegally undertaken by the Respondent No.5, RVNL pursuant to the grant of Stage-I Forest Clearance dated 04.02.2021. The Applicant has also filed an IA No. 88/2021 seeking stay on the doubling project and felling of trees on extremely frivolous and baseless grounds. Hence this reply.
2. That the Respondent No.5, RVNL has already submitted its detailed response to the main OA No. 129/2021 and the contents of the same are being relied here and not being repeated for the sake of brevity.
3. That at the outset, it is important to state that the present Application for Stay is not maintainable and liable to be rejected *in limine* as this Hon'ble Tribunal vide Order dt. 25.08.2021 recorded the statement of the Respondent No.5, RVNL that there is no felling of trees that will be undertaken till a

final permission for the same is granted. In view of the same, the present Stay Application has become infructuous and is liable to be dismissed.

PARA WISE REPLY

1. That the contents of the corresponding para are denied, save what are matters of record. It is surprising to note that the Applicant has now challenged the diversion of 148.8416 ha forest land, spread across the States of Karnataka and Goa in the Stay Application, filed allegedly for staying illegal tree felling. It is humbly submitted that such an averment begets two preliminary objections on questions of law, the first being that the Applicant has gone beyond the scope of the Original Application and has now raised the issue of diversion of forest land in the States of Karnataka and Goa in a Stay Application, which is not permissible. This Hon'ble Tribunal, vide Order dated 25.08.2021 has already recorded the statement of the Respondent No.5, RVNL that no illegal tree felling is being undertaken and will also not be undertaken till the statutory process is completed and permissions are granted accordingly. It is therefore prayed that this Hon'ble Tribunal may dismiss the Application for Stay on this ground alone.

Further, the contents of para 2,3 and 4 (on pg156-158) of the Preliminary Objections of the Reply dated 25.08.2021 filed by the answering Respondent No.5, RVNL may be read alongwith the response to this para.

2. That the contents of the corresponding para are denied, save what are matters of record. It is submitted that the Applicant has yet again exceeded the ambit of the Original Application and has submitted in the IA for Stay that the project is in the Kali Tiger Reserve, without any corroboration of the same. The answering Respondent denies this afore-mentioned fact completely as being completely false.

Further, it is reiterated that the Applicant has placed an incomplete and erroneous position of law with regard seeking permission from the Regional Office of MoEF & CC and it is submitted that the Gazette Notification dated 14.03.2014 stands superseded by Gazette Notifications dated 14.10.2014 and 06.03.2017, which clearly state that the Regional Office is empowered to grant Stage-I FC to linear projects, irrespective of the area. The contents of para 5 of the Preliminary Objections of the Reply dated 25.08.2021 filed by the answering Respondent No. 5, RVNL may be read alongwith the response to this para. It is also reiterated that all statutory clearances have been taken in accordance with law and for portions where no final orders have been issued, or where status quo orders operate, no activity of the Respondents is being undertaken. Any further action on such lands will only be initiated in accordance with law and after obtaining necessary approvals.

3. That in response to the contents of the corresponding para it is stated that the Hon'ble Supreme Court has constituted an Expert Committee which is yet to submit its report stating the criteria or parameter for assessment for undertaking felling of trees. That the answering Respondent has submitted Rs. 168 Crores based on the existing criteria and parameters for undertaking compensatory afforestation and Net Present Value on felling of trees which is also as per the norms laid down and approved by the Hon'ble Supreme Court. In any case, as and when the Hon'ble Supreme Court decides any new criteria, the same shall be applicable in the terms of such decision across the board and the answering Respondent, as a public sector company shall do the needful in accordance with law.
4. That the answering Respondent submits that the instant Application for Stay alongwith the Original Application has become infructuous as the answering Respondent is not undertaking any felling of trees as per Letter dated

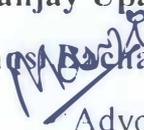
06.05.2021 (annexed as ANNEXURE R/3 @ pg182 of Reply dated 25.08.2021 by R-5) and thus the IA may be dismissed on this ground alone.

5. That it is further submitted that the Applicant has not put on record any averment which merits the grant of stay as it has not only exceeded the ambit of the Original Application, but has also relied on incorrect position of the law vis-a-vis obtaining permissions and has filed the OA based on pure apprehension, which is not a good enough legal reason to initiate this litigation.
6. That in view of the abovementioned position of law and facts, it is submitted that the present Stay Application be dismissed with costs.

Date: 04.09.2021

Place: New Delhi

DRAWN AND FILED BY:

Sanjay Upadhyay, Eisha Krishn,
Maansu Bachani & Tonyot Gylatson

Advocates for the Applicant
29, Presidential Estate, Nizamuddin East
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**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH**

IA NO. 88/2021

IN

OA No. 129/2021

In the matter of:

Daniel Sukumardas

..... Applicant

V/s

Union of India & Others.

..... Respondents

AFFIDAVIT

I, P. K. Kshatriya, S/o P. G Kshatriya aged about 55 years working as Chief Project Manager, having its office at Rail Vikas Nigam Ltd Bangalore, do here by solemnly affirm and declare as under:-

1. That I am well conversant with the facts and circumstances of the case and duly authorized to sign the present affidavit on behalf of respondent and hence competent to swear this affidavit.
2. That the contents of the accompanying "Reply to the IA for Stay" are true and correct to my knowledge based on the records available and the same has been drafted under my instructions.




DEPONENT
CHIEF PROJECT MANAGER
RAIL VIKAS NIGAM LIMITED
No. 18, Millers Road, Benson Town Post,
BANGALORE-560 046

VERIFICATION:-

12 AUG 2021

I, the above named deponent do hereby solemnly affirm and verify that the contents of above paras of the affidavit are true and correct to the best of my knowledge and belief, and that nothing has been concealed therefrom.

Verified on _____ day of July, 2021 at Delhi.

12 AUG 2021




DEPONENT
CHIEF PROJECT MANAGER
RAIL VIKAS NIGAM LIMITED
No. 18, Millers Road, Benson Town Post,
BANGALORE-560 046

Certified that the foregoing statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted it as correct

Notary, DELHI

12 AUG 2021

12 AUG 2021



Service in Daniel Sukumar Das I.A. No. 88 of 2021 in O.A. No. 129 of 2021(Reply on behalf of Respondent No.5, Rail Vikas Nigam Ltd. to IA No. 88 of 2021)

1 message

ELDF <eldflegal@gmail.com>

Sat, Sep 4, 2021 at 10:42 AM

To: litigation.life@gmail.com, Om Prakash <OMPRAKASH.LIFE@gmail.com>, secy-moef@nic.in, rosz.bng-mef@nic.in, cs@karnataka.gov.in, pccfkar@gmail.com

Cc: Eisha Krishn <eisha@eldfindia.com>, Mansi Bachani <mansi@eldfindia.com>

Respected Sir/Ma'am

Places find the attachment of the Daniel Sukumar Das I.A. No. 88 of 2021 in O.A. No. 129 of 2021(Reply on behalf of Respondent No.5, Rail Vikas Nigam Ltd. to IA No. 88 of 2021)

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Sameer

Clerk

Enviro Legal Defence Firm

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LGF, Nizamuddin East

New Delhi – 110013

Ph.No. 011-40573181

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