

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

ORIGINAL APPLICATION NO. 88 OF 2024

IN THE MATTER OF:

Siddharth Ambaji Patil & Anr.

.....Applicants

Versus

Pen Municipal Council & Ors.

.....Respondents

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Filed by:



Zaman Ali,

Advocate for the Applicants

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 88 OF 2024



IN THE MATTER OF:

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ADDITIONAL AFFIDAVIT ON BEHALF OF THE APPLICANTS

I, Siddharth Ambaji Patil, aged 69 years, Indian inhabitant, & having my address at A-8, Nav-Sahajeevan CHS, Shivrushti, Kurla (East), Mumbai – 400 024, do hereby solemnly state that I am filing this additional affidavit in terms of the order dated 30.04.2024 to place on record the evidence of agricultural activity undertaken by the Applicants. Annexed and marked hereto as **ANNEXURE A-1** is a copy of the order dated 30.04.2024. I reserve my right to file an additional detailed Affidavit as and when required.

1. I say that Applicant No. 1 had purchased the concerned plot bearing Survey No. 157 at Village Ambeghar, Taluka Pen, District Raigad in 2007 and that the Applicant No. 2 had purchased the concerned plot bearing Survey No. 158 at Village Ambeghar, Taluka Pen, District Raigad in 2008.
2. As stated earlier in the OA, Applicants have been cultivating paddy at their respective agricultural plots for domestic use and that the Revenue authorities viz. Talathi of Pen Taluka, Raigad District has recorded that

such paddy cultivation has been carried out by the Applicants themselves herein since 2007-2008 atleast upto 2013. Annexed and marked hereto as **ANNEXURE A-2** is a copy of the aforesaid records from 2007-2013 which demonstrate that Applicants were indeed cultivating paddy at their respective plots by themselves for their domestic use. I say that the Applicants have continued paddy cultivation in batches until 2017 and while seeking the afore-stated information from the revenue authorities for the year 2014-2017, it was informed to the Applicants that records of cultivation from 2014-2015 onwards have been digitised and that the access to the digital records is restricted due to change in the website of the revenue department and therefore, the same could not be procured immediately.

3. However, I say and submit that for the purpose of compliance as regards the order dated 30.04.2024 passed by this Hon'ble Tribunal, the Applicants have now provided further data atleast upto 2013 to demonstrate that plots were indeed used for cultivation of crops, albeit for domestic use and therefore, loss of expected agricultural income caused due to the actions of indiscriminate dumping by R-1 ought to be included in the assessment of overall compensation in the present application.
4. In view of what is stated above, it is humbly prayed that expected loss of agricultural income ought to be included in the overall compensation and appropriate compensation, as determined, be directed to be paid to the Applicants from the period from 30.04.2018 to the day when the land will be restored to its cultivability.

Solemnly affirmed at Mumbai)



Dated this 14 Day of June, 2024)
14 JUN 2024



Identified by Me

Zaman Ali,

Advocate for Original Applicants

DEPONENT

ORIGINAL SEEN & VERIFIED						
AADHR	PAN	ELECTION ID	DRNG. LICENSE	PPSSPORT	POA	RESOLUTION
835643859756						

BEFORE ME
Shane Cardoz
SHANE CARDOZ
Advocate & Notary (Govt. of India)
Reg. No. 16388 B.Com, LL.B.
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Next to Ganesh Mandir Chowk, Bandra (W)
Mumbai - 400 050, Mob.: 98205 17020
MAH / 3457 / 2002

Notary Register Serial No	1095/c/24
Date:	14 JUN 2024



Item No.1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.88/2024(WZ)

Siddharth Ambaji Patil & Anr.

.....Applicant(s)

Versus

Pen Municipal Council & Ors.

....Respondent(s)

Date of hearing: 30.04.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Zaman Ali, Advocate

ORDER

1. The present Original Application has been filed with the prayers that the respondent No.1- Pen Municipal Council be directed to provide relief and compensation for the environmental damage caused due to the indiscriminate dumping of mixed waste, garbage waste, plastic waste, construction waste and other hazardous waste on the Plot Nos.157 & 158 belonging to the Applicants; respondent No.1 be directed to immediately construct/erect a 20 ft. high boundary wall separating Plot Nos.156 and 157 within a fixed time period, prior to the monsoon commencing in the first week of June; and respondent No.1 be also prevented from any fresh dumping or spillage of waste into Plot No.157, which is owned by the Applicant No.1.

2. The applicants have submitted an information in this regard in Form- II as they are claiming personal compensation as well, wherein it is submitted that applicant No.1 and applicant No.2 (daughter of applicant

No.1), both are Doctors by professions. Applicant No.1 owns a piece of cultivable land admeasuring 0.51 Ha. (Or 51 Gunthas) bearing Gat/Survey No.157 at Village Ambeghar, Taluka Pen, District Raigad and Applicant No.2 owns a piece of cultivable land admeasuring 0.34 Ha. (Or 34.70 Gunthas) bearing Gat/Survey No.158 at the same Village since 2008.

3. It is further mentioned in this application that respondent No.1- Pen Municipal Council owns the adjacent plot at Gat/Survey No.156 and has been carrying out unscientific dumping of mixed waste, solid waste, construction waste, bio-medical waste and other hazardous waste, not only at its own land but also at the lands owned by the Applicants.

4. The learned counsel for applicants has drawn our attention to the Rights Record Sheet, which is annexed at page nos.42 to 44 of the paper book, showing ownership of these two Survey Numbers along-with the areas in the name of two applicants. He has also drawn our attention to page no.59 of the paper book, which is a Map of the site in question, wherein Survey Nos.156, 157 and 158 are shown, in which in Survey Nos.156 & 157, both are having huge garbage stacked there.

5. It is further mentioned in this application that sometime in 2017, Respondent No.1 had commenced unscientific dumping of garbage at its own land at Survey No.156. Thereafter by April 2018, Respondent No.1 also encroached upon the adjacent private agricultural lands of Applicant No.1 and commenced dumping of untreated garbage at the said survey number as well. In this regard, applicants made representation to the respondent No.1 on 13.06.2018 informing about the same but to no avail and respondent No.1 continued to illegally dump municipal garbage at the said site. A representation dated 31.05.2022 was also moved by the

applicants to the respondent No.1 seeking immediate halt to the dumping of garbage that had continued over the years with a further plea to construct boundary between the two plots, i.e. between Survey Nos.156 & 157 but also to no avail.

6. It is further mentioned in this application that the garbage piled on Plot No.156, that is in the land of respondent No. 1, is about 16-18 feet in height. The topography of the land of applicants i.e. Plot Nos.157 and 158 are on a lower level than Plot No.156. Hence during the ensuing monsoon, in the absence of a 20 foot strong boundary wall between Plot No.156 and Applicants' Plot Nos.157 & 158, the garbage from Plot No.156 would slide on to the Applicants' land. It is further submitted that on 21.03.2024, Respondent No.1, for the first time over the last 5 years, responded to the Applicants' letters and representations, admitting that the waste from respondent No.1's plot has entered into the Applicants' plot and the same would be cleaned. But the said letter states in a baseless manner that the Government of Maharashtra has sanctioned bio-mining of the garbage. It is further submitted that such a statement of the respondent No.1 defies any logic as bio-mining will pertain to the plot owned by the respondent No.1 and that no such bio-mining work of any kind can be undertaken at the plot of the Applicants without their consent (During argument, the learned counsel for applicants agrees that consent would certainly be given for such kind of bio-mining).

7. It is further mentioned in this application that over the last 5-6 years, a very high leachate content with toxic metals has already seeped into the soil, rendering the lands of the applicants unusable and unfit for any cultivation purpose. It is also mentioned that before assessing economic loss caused due to indiscriminate dumping of waste by the respondent No.1 on Applicants' lands, it would be necessary to assess the

adverse consequences of such dumping under the heads: (i) Loss of Crop Productivity of Crop Diversity; (ii) Increase in Soil PH levels; (iii) Increase in Electrical Conductivity of Soil along-with increase in toxicity due to Boron, Phosphorus and Carbon; (iv) Decrease in microbial activity; (v) Leachate discharge; (vi) Loss of farm income and a loss of agricultural property value; (vii) Loss of value of real estate in the contaminated area; and (viii) Groundwater contamination.

8. It is further mentioned in this application that Applicants had made a sincere attempt to quantify Environmental Damage Compensation, which the Respondent No.1 should be ordered to pay. This Tribunal may further direct scientific agencies to calculate the exact assessment. However, the Applicants have relied upon several scientific reports and guidelines framed by the CPCB, NEERI and the European Union (EU) for arriving at a provisional figure for the cost assessment of environmental damage caused to Applicants' lands, details of which are recorded in para no.12.17 from sub-para (i) to (iii); details of loss of Property Value are given by the applicants in para nos.12.19 to 12.20 of the present Original Application; and the figures with respect to the damage caused to the lands of applicant Nos.1 & 2 are calculated to be Rs.11,10,779/- and Rs.5,02,108/- respectively. The applicants have also assessed damage caused due to release of leachate into the ground and aesthetic loss to the tune of Rs.21.85 Cr. and Rs.14.56 Cr. respectively in respect of the lands belonging to the applicant Nos.1 & 2. The assessment with respect to loss caused to the agricultural income is also calculated to the tune of Rs.8,07,024/- in respect of the land belonging to applicant No.1 and to the tune of Rs.4,84,214/- in respect of the land belonging to applicant No.2. Total amount comes to Rs.29,04,125/-.

9. At this stage, we enquired from the learned counsel for applicants as to how applicants arrived on these figures of the loss caused to the agricultural crops because we do not find any figure of the previous five years, during which these losses are said to have been incurred, as to which crop was grown on the said lands and for how much income it fetched and now the said lands are not yielding any crops. Therefore, we would like the learned counsel for applicants to provide details in this regard so that the same may be treated as an evidence in support of the averments made by the applicants, within one month.

10. It is also apprised by the learned counsel for applicants that applicants have already paid @1% of the court fees on the total amount of Rs.29,04,125/- as per law. He further submits that this is a provisional amount, which is being claimed by the applicants and that to ascertain the actual loss caused to the crops of the applicants, it would be possible only when some Expert Committee may be appointed to assess the same.

11. We find *prima facie* case adversely impacting environment is made out, therefore, we deem it appropriate to admit this application and accordingly admit the same.

12. Registry is directed to issue Notice to the respondents, returnable within 04(four) weeks.

13. Applicants are directed to take necessary steps for service to the respondents by both ways (Dasti as well as by Registered Post) and also on available e-mail/WhatsApp and submit service affidavit within one week.

14. Applicants are also directed to provide copy of the application and relevant documents to the respondents within a week.

15. Respondents are directed to submit their reply affidavits within four weeks and also circulate the same to the applicants as also other respondents by available e-mail.

16. Rejoinder, if any, is directed to be submitted within one week thereafter.

17. We deem it just and proper to constitute a Joint Committee comprising one Member each of:-

- (i) The Maharashtra State Pollution Control Board (MPCB);
- (ii) The District Collector, Raigad; and
- (iii) The Central Pollution Control Board (CPCB).

18. The Maharashtra Pollution Control Board (MPCB) shall be the nodal agency for coordination and logistic support.

19. The Committee is directed to visit the site in question after informing the applicants/applicants' counsel; assess the damage caused to the environment due to the activity of respondent No.1 and also to the lands belonging to the applicants; and submit a factual and action taken report with regard to the violation, if any, action taken thereon, within two month.

20. The report in the matter be submitted by MPCB through e-filing by using portal of NGT in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

21. Applicants are directed to supply the required documents and copy of the application to the Members of the Committee within three days from today.

22. A copy of this order be communicated to the above-mentioned Committee forth-with for compliance.

Put up this matter for further consideration on 21.08.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 30, 2024
Original Application No.88/2024(WZ)
P.Kr

Handwritten signatures in blue ink, including the name 'The' and other illegible marks.

गाव नमुना धारा - चालू

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2097	14	म							सुभात 0-80-0				25/44	
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(गाव नमुना वरतुमुम नमुना दिली) दि. 9/6/2022

तलाठी सजा गागोदे बु.
ता. पेण, जि. रायगड

तलाठी सजा गागोदे बु.
ता. पेण, जि. रायगड

O.R. R.D. No. 10022/24 of 18-10-2011

Dr. No. Dist. VV/1022 of 18-10-2011 from D. G. P. & S. Bunkar

गाव नमुना सात (अधिकार अभिलेख पत्रक)

[महाराष्ट्र बंदीन महसूल अधिनियम बंधितस्य आणि नोंदवहा (तयार करणे व सुविधनीय ठेवणे) नियम, १९७१ यातील नियम ३, ४, ६ आणि ७]

गाव खुदवेष्ट

तालुका पेप

प्रमाणन क्रमांक	प्रमाणन वेळापत्रक जाहीरवाक	प्रमाणना पडती	नामधेळावताचे नाव	पत्रक क्रमांक २-२५८	००००१७
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दोमवे स्थानिक नाव			२. <u>रविंद्र तेलवार्ड</u>	इतर अधिकार	
नामधेळावताचे क्षेत्र	हेक्टर	जा	३. <u>मधुकुन नारायण मोकरे</u>		
.....	०-२१	२	४. <u>विठ्ठल सुभाष पारिज</u>		
.....	०-१९	१	५. <u>विजयश्री विद्यार्थी पारिज</u>		
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वर्ग (ब)	०-०४	१			
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नवी किंवा विरासत जकारणी		२५			

टीप: आणि प्रमाणन दिवस हेटवणे भद्र्याम प्रकल्पाच्या ताम क्षेत्रातच्ये समाविष्ट १७९६

गाव नमुना चारा (पिकाची नोंदवही)

[महाराष्ट्र बंदीन महसूल अधिनियम बंधितस्य आणि नोंदवहा (तयार करणे व सुविधनीय ठेवणे) नियम, १९७१ यातील नियम २१]

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Subhat = Paddy

Khud = On its own

**BEFORE THE NATIONAL GREEN
TRIBUNAL, WESTERN BENCH
SITTING AT PUNE
O.A. NO. 88 OF 2024**

IN THE MATTER BETWEEN

Siddharth Ambaji Patil & Anr. ...

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AFFIDAVIT OF SERVICE

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