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**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION No. 17 of 2023

Srikant Pradhan and another **Applicant**

VERSUS

State of Odisha and other **Respondent**

(Additional Affidavit by Applicant)

Most Respectfully Shweth

I Srikant Pradhan aged 38 years S/o Hariha Pradhan At-
Khandiabandha P.O- Gopinathpur P.S- Puri Sadar Puri-752002 do
hereby solemnly affirm that:-

PARAWISE REPLY

1. That the averments made in Paragraph 2 and 3 by Respondent
No. 14 it is worthwhile to mention here that the respondent

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Handwritten red text: 17/12/2023

**SK. OSIUDDIN AHMED
NOTARY PUBLIC
CUTTACK, ODISHA, INDIA**

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cannot claim the benefit of construction over water body just only on the ground that it is his private land. As per Section 24(b) of Water Act, 1974

“(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences”

The Act has been clear as to construction over a private water body or government water body is illegal and no matter as to status of land construction over water body is illegal.

Similarly obstruction of the water body violates the provision of Section 7 and 39 of Orissa Irrigation Act, 1959 which stipulates that the natural flow of water at any cost shall not be obstructed. Such obstructions are basically the death nail for the river system affecting the livelihood of the community and other eco revering system.

Adv,

SK. OSIUDDIN AHMED
NOTARY PUBLIC
CUTTACK, ODISHA, INDIA

2. That in reply to Paragraph 4 by Respondent No. 14 it is worthwhile to mention here that the Respondent No. 14 has already constructed over the alleged water body and the construction is still going on. The size of water body is around Acc. 1.5800 decimals. The respondent has constructed over more than half of water body. He has just left a small portion of water body out of Acc. 1.5800 decimals which has been annexed in page 36-38 of petition by applicant. Similarly in the photograph some houses are been made over other plots which are not water bodies to which the respondent No. 14 is trying to mislead the Hon'ble Court.
3. That in reply to averments made in Paragraph 5 it is worthwhile to mention here that in point number 3 page numbers 20 of the affidavit filed by the Odisha State Pollution Control Board dated 11/04/2023 the committee has clearly found that along with the pond there exists a road. This completely proves what applicant has stated in his petition. The private respondent is still constructing over the water



body. He has just left a small portion of the land as water body and remaining area he has obstructed the water body.

4. That in response to Paragraph 5-6 of the counter affidavit by the private respondent it is worthwhile to mention here that the respondent is misleading the Hon'ble Court by giving photograph of a place which is not related to this case. The pond is situated near the alleged plot but it is no way related to the plot alleged in this Original Application. The respondent is even constructing over the alleged plot during the pendency over the case. Sands and other constructing materials are being used over the water body.

5. That in response to paragraph 8 of the Original Application it is worthwhile to mention here that the private respondent is a builder who himself has been illegally constructing over water bodies.

6. That the averments made in Paragraph 9 in the counter affidavit Is false as still construction is going on and the photograph provided by applicant has substantiate it.

7. That the averments made in paragraph 10 it is worthwhile to mention here that it is worthwhile to mention here that the Opp. Party has completely remained silent on as to how the level of *ground water* will be affected in the said area if such construction is allowed. Puri has always the issue of poor ground water. As in most of the water bodies constructions has been made. Because of the illegal construction the ground water never gets recharged properly. Similarly if the construction over the alleged water body is allowed it will badly affect the already dwindling groundwater level of Puri.
8. That it is worthwhile to mention here that in reply to averments made in paragraph 11 and 12 it is worthwhile to mention here that the construction Is still going on even in the affidavit of Odisha Pollution Control Board dated 11/04/2023 in its remarks part has clearly stated that construction has been made over the alleged plots which is supposed to be water bodies.

Similarly as per *Lexicon of revenue Terms* the word

Jalasaya means

*“ tank, pohkahari, water reservoir, bandh, kata, bamphi
chira etc”*

So taking into legal definition of Jalasaya it cannot be claimed that Jalasaya should be confined by its bunds and there shall be no possibility for connecting to connecting any other water channel. The private respondent has restricted the definition of Jalasaya by claiming that it should be within bunds and it cannot connect to any other water channel. Similarly the said water body is somewhat interlinked to the water bodies alleged in OA 16/2023 and OA 18/2023. So it cannot be claimed that the water body is confined to its bunds

9. That in response to paragraph 13 and 14 it is worthwhile to mention here that the photograph provided by the respondent is not of that place which has been alleged in the Original Application.

10. That the averments made in paragraph 15 it is worthwhile to mention here that the applicants and the villagers has filed several complaints against the respondent before Tehsildar

Puri. But the respondent taking advantage of his influential position has never made this allegation fulfilled.

11. That in reply to averments made in paragraph 16 and 17 it is worthwhile to mention here that as per 24(b)

“(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences”

The above paragraph clearly states that no construction shall which will obstruct the flow or obstruct the natural water body.

That it is worthwhile to mention here that as per Section 24(3)

“(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition

Adv

so specified may by a like notification be altered, varied or amended”

The respondent hasn't shown any documents or authority whereby he has received permission from the State authority to construct over the water body. So the exemption the respondent is claiming over Section 24(2) is not applicable to respondent until or unless he shows requisite permission to this regard.

12. That with regards to averment made in paragraph 18 and 19 it is worthwhile to mention here that the respondent is till constructing over the alleged plot. He has been doing the same even during the pendency of OA.

13. That at the cost of repetition it is worthwhile to state here that the photograph it is worthwhile to mention here that the respondent is misleading the Hon'ble Court by giving photograph of a place which is not related to this case. The pond is situated near the alleged plot but it is no way related to the plot alleged in this Original Application. The respondent is

even constructing over the alleged plot during the pendency over the case.

14. That it is worthwhile to mention here that the averments made in paragraph 21-23 it is worthwhile to mention here that the Respondent No. 14 is liable for misleading the court. The report of committee has clearly substantiated that construction is there. So the respondent very much liable for the legal impediments to which he has prayed for.

15. That it is worthwhile to mention here that the construction is still going on and if the construction is allowed it will create much bigger water logging issue which the committee has accepted through it report. It will also affect the flow of water to Musa River.

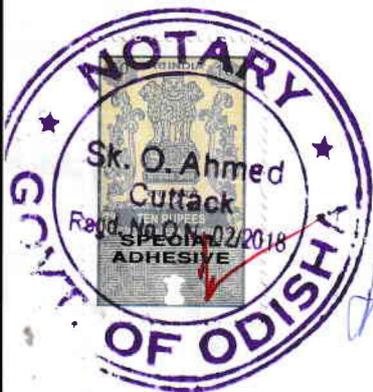
16. That the facts state above are true to my best of knowledge and belief

Kolkata

Date 11/07/2023

Identified By

ସ୍ୱାକ୍ଷର
DEPONENT



Solemnly Sworn before me by... S. Pradhan... being identified by... A. Sela Ahmed... at Cuttack, dated... 01/07/2023

Ostrud
k. O. Ahmed
11/07/2023