

**No. SEIAA: 22: IND: 2011**  
**STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT**  
**AUTHORITY, KARNATAKA**  
(Constituted by Ministry of Environment & Forests, Government of India)

Department of Ecology & Environment,  
Room No.709, 7<sup>th</sup> Floor, IV-Gate,  
M.S. Building, Bangalore-560 001,  
Date: 21<sup>st</sup> September 2012.

To,

M/s. Honnavar Port Pvt. Ltd.,  
# 103, Lalehzar Apartments,  
45/I-2, Palace Road,  
Bangalore- 560 001.

Phone: +91-80-22353670, 41494960.  
Fax: +91-80-22353671.  
Email: [info@honnavaport.com](mailto:info@honnavaport.com)

Sir,

Sub: Development of Barge/vessel loading facility to handle 4.9 MTPA of cargo at Coastal Sand Spit, Kasarkod Tonka Village, Honnavar Taluk, Uttara Kannda District of M/s. Honnavar Port Pvt. Ltd.,- issue of Environmental Clearance- reg

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This has a reference to your application dated 09.06.2011 and subsequent communications in this regard for Environmental Clearance for the proposed development of Barge/vessel loading facility to handle 4.9 MTPA of cargo. The proposal has been examined and processed in accordance with EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., the Application in Form 1, EIA, EMP and the additional clarifications furnished in response to the observations of the SEAC, Karnataka.

2. It is interalia, noted that M/s. Honnavar Port Pvt. Ltd., have proposed for development of an all weather barge / vessel loading facility at Coastal Sand Spit, Kasarkod Tonka Village, Honnavar Taluk, Uttara Kannda District. Total land requirement for the proposed facility is 44 Ha out of which, Coal stockyard area: 7 ha; Iron ore stockyard area: 1.80 ha; General cargo storage (open) area: 4 ha; General cargo storage (Closed) area: 2 ha; Liquid cargo storage area: 0.10 ha; Roads and circulation area: 8.15 ha; Operation building area: 0.05 ha; Canteen area: 0.02 ha; Vehicle parking area: 0.09 ha; Substation area: 0.02 ha; Gate house/security/weigh bridge area: 1.50 ha; Truck parking area: 5.40 ha; Fuel station area: 0.02 ha; Control tower area: 0.01 ha; Green belt area: 3.10 ha; Area available for other operations and area earmarked for future expansion: 6.72 ha and Rock armour area (approx) 4 ha.

Total capacity of cargo handling is 4.9 MTPA of which 2.70 MTPA of coal; 1.00 MTPA of iron ore; General Cargo 1.20 MTPA i.e. Granite-0.16 MTPA; Fertilizer- 0.2 MTPA; molasses with agro products- 0.15 MTPA; steel products- 0.40 MTPA and sugar-0.29 MTPA. In order to maintain tranquility in the harbor basin, two break waters are proposed (Southern Break Water: 865 m and northern break water: 820 m). Berth of 440m long and 30m wide with back up area of 44 Hectares, dredging, approach channel: (length of approach channel inner: 1395m & outer 2280m, width of the channel 100m and depth of the channel: (-)10 m); Turning circle (diameter of the turning circle -250m, dredged to a depth of (-) 10 m), Estimated dredging quantity 3.9 million cum, Estimated quantity proposed to be used for reclamation 1 million cum.

3. Total water requirement during the operation phase of barge/vessel loading facility is 7 KLD will be met from Karnataka Rural Water Supply & Sanitation Agency. Out of 7 KLD, 3 KLD supply to barges, 2 KLD supply to barge loading facility staff & users and 2 KLD for miscellaneous. The water required for dust suppression system and fire fighting will be sourced from Sharavati River. The sewage system will be provided to collect the sewage from barge/vessel loading facility administration building; canteen and operation building will be treated in STP. The cargo storage area will be provided with an extensive drainage and treatment system. Drainage pits will be provided in the workshop areas, which will be connected to an oily wastewater tank. Oily wastewater if any will be collected and will be treated to meet the discharge standards. The total power requirement is 1 MVA. The total cost of the project is Rs. 513 Crores.

4. The project proposal has been considered by SEAC and ToRs were issued on 13.09.2011 for conducting Environment Impact Assessment Study and public consultation.

5. The EIA has been conducted by M/s. L&T Ramboll Consulting Engineers Ltd, 3-11921, 5<sup>th</sup> Floor, Block-No. 3, White-House, Kundan Bagh, Begumpet, Hyderabad - 500 016, A.P. (QCI/NABET accredit consultant). The Public Consultation was held on 27.01.2012.

6. Based on the information submitted by you, presentation made by you and the consultant, M/s. L&T Ramboll Consulting Engineers Ltd, 3-11921, 5<sup>th</sup> Floor, Block No. 3, White House, Kundan Bagh, Begumpet, Hyderabad - 500 016, A.P. the State Level Expert Appraisal Committee (SEAC) examined the proposal and has recommended for issue of Environmental Clearance in the meetings held on 20.08.2011, 17.03.2012, 07.04.2012 & 25/26.05.2012.

7. The Karnataka State Coastal Zone Management Authority has recommended the proposal for issue of Environmental Clearance during the meeting held on 28.05.2012.

8. After due consideration of the project proposal, and considering the recommendations of the State Level Expert Appraisal Committee (SEAC) and KSCZMA, the State Level Environment Impact Assessment Authority (SEIAA) in its meeting held on 06.07.2012 & 06.08.2012 accords Environmental Clearance to the project as per provisions of the EIA Notification No. S.O. 1533 dated 14<sup>th</sup> September 2006 of Ministry of Environment & Forest, GoI subject to strict compliance of terms and conditions as mentioned below:-

**A. Specific Conditions:-**

1. Consent for Establishment from the Karnataka State Pollution Control Board should be obtained before initiating the project.
2. Dredged material remaining after the reclamation/backfilling shall be disposed at dumpsite identified at 2 Km to the North of port entrance channel. The dredged material shall be disposed at greater depths (>30 m) during period of strong near shore currents (during peak wet season) depth so that the material does not come 1.5 m above bed level.
3. Dredging operations shall be undertaken in consultation with expert organization to ensure that dredging operations do not cause adverse impact on water quality and marine productivity in the vicinity. Dredging operation as far as possible should be kept to the minimum for avoiding any adverse impact on marine life.
4. Deflectors in the dredgers should be fixed if required as to prevent harm to marine species.
5. Disposal sites for excavated material for reclamation/backfilling should be so designed that the revised land use after dumping and changes in the land use pattern do not interfere with the natural drainage.
6. To meet with any emergency situation, adequate foam containers should be kept ready with supporting fire-fighting system and water pipeline.
7. Staff posted in sensitive areas should be trained in implementation of the Crisis Management Plan already drawn by the authorities. Mock drill(s) for this purpose should be conducted on a regular basis. Provisions of Dock Safety Act and the guidelines issued by the DG, FASLI/CLI, Mumbai for the safety and health of the workers should be followed.
8. Treatment and discharge of sewage and other liquid wastes including ballast into marine environment shall be carried out as per KSPCB guidelines.
9. Adequate noise control measure must be provided to control noise level at various work places within the standard prescribed. Ear plugs and ear muffs should be provided to the workers in the project area.
10. The quality of treated effluents, solid wastes and emission must conform to the standards laid down by the competent authority. There shall be no disposal of solid and liquid waste into the coastal environment.
11. Necessary leakage detection devices with early warning system must be provided at strategic locations.
12. Standby DG Sets must be provided to ensure uninterrupted power supply of the pump house and the fire fighting system.
13. All lights should be dark sky friendly and should not create glare as glare created would disturb marine life.

14. Undertaking of awareness campaigns amongst fishermen and villagers to minimize harm to species as stipulated.
15. No beach sand shall be used for construction activities.
16. The approach channel shall be properly demarcated with lighted buoys for safe navigation and adequate traffic control guidelines shall be framed.
17. The height of the buildings other than the lighthouse tower should not exceed 9 meters, and the constructions should be in accordance with the existing FSI/FAR norms in accordance with Coastal Regulation Zone Notification, 1991/2011.
18. The construction waste should be disposed off in designated dumping grounds outside the port area after obtaining necessary permissions from the local Authorities.
19. During transportation of the construction material, it shall be ensured that all safety norms are followed and no spillage takes place in the city roads.
20. No product other than those permissible in the Coastal Regulation Zone Notification, should be stored in the Coastal Regulation Zone area.
21. All construction design/ drawings relating to construction activities must have the approval of the concerned Departments/ Agencies. Ground water should not be tapped for construction activities as the drawl of ground water for industrial use from the CRZ area is a prohibited activity. It should also be ensured that as a result of the proposed constructions, ingress of saline water into ground water does not take place.
22. There shall be no withdrawal of groundwater in Coastal Regulation Zone area, for this project. In case any ground water is proposed to be withdrawn from outside the CRZ area, specific prior permission from the concerned State / Central Groundwater Board shall be obtained in this regard.
23. The waste water generated from the activity shall be collected, treated and reused properly.
24. Sewage Treatment facility should be provided in accordance with the CRZ Notification.
25. Installation and operation of DG set if any shall comply with the guidelines of CPCB. Oil spills if any shall be properly collected and disposed as per the Rules. Project proponent shall install necessary oil spill mitigation measures.
26. No construction work other than those permitted in Coastal Regulation Zone Notification shall be carried out in Coastal Regulation Zone area.
27. The funds earmarked for environment management plan shall be included in the budget and this shall not be diverted for any other purposes.
28. It shall be ensured that the proposed activities does not cause disturbance to the fishing activity, movements of fishing boats.
29. Adequate provision for infrastructure facilities including water supply, fuel and sanitation must be ensured for construction workers during the construction phase of the project to avoid any damage to the environment.
30. All the commitments made to the public during the Public Hearing / Public Consultation meeting held on 27.01.2012 should be satisfactorily implemented and a separate budget for implementing the same shall be allocated and information submitted to the Authority.
31. The company shall comply with the recommendations made in the EIA/EMP/Risk assessment report/Modeling study etc.

32. The project authorities shall follow the best practices that are being adopted for Safe handling and storage of coal and iron ore in other major ports.
33. The project authorities shall follow the measures proposed for prevention and abatement of air, water and soil pollution due to handling and storage of coal and iron ore.
34. Catch drains and siltation ponds of appropriate size should be constructed to arrest silt and sediment flows from the stock yard. The water so collected should be utilized for sprinkling stockyard, roads and watering green belt development etc. The drains should be regularly de-silted and maintained properly.
35. Garland drains (size, gradient and length) and sump capacity shall be designed keeping 50% safety margin over and above the peak sudden rainfall and maximum discharge in the area adjoining the stock yard. Sump capacity shall also be provided for adequate retention period to allow proper settling of silt material.
36. Dimension of the retaining wall at the toe of dumps to check run-off and siltation should be based on the rainfall data.
37. Vehicular emissions should be kept under control and regularly monitored. Measures shall be taken for maintenance of vehicles used in stock yard and in transportation of mineral. The vehicles should be covered with a tarpaulin and shall not be overloaded.
38. Pre-placement medical examination and periodical medical examination of the workers engaged in the project shall be carried out and records maintained. For the purpose, schedule of health examination of the workers should be drawn and followed accordingly.
39. All approach roads shall be black topped and internal roads and major haul roads shall be black topped or concreted and swept regularly with mechanical sweepers.
40. A 3-tier avenue plantation using local species shall be developed along the main roads, and approach roads. In addition, green belt shall be developed using local species all along the periphery of the site, along the stockyards, which shall be properly maintained. Water sprinkling arrangements shall be established and functional during transfer and loading of coal/iron ore.
41. The Project authorities shall earmark at least 5 % of the total cost of the project towards the future corporate social responsibility, including activities such as providing treated drinking water to Kasarkod, Tonka and Apsarakonda Villages by installing RO plants, provide educational and health facilities and undertake community development programs committed vide letter dated 27.08.2012 which are to be implemented with a budget not less than Rs. 1.5 Crores. Item-wise details along with time bound action plan shall be prepared and submitted to the Authority.

**B. GENERAL CONDITIONS:**

1. A separate Environment Management Cell with qualified staff shall be set up for implementation of the stipulated environmental safeguards.
2. The project authorities shall strictly adhere to the stipulations made by the Karnataka State Pollution Control Board (KSPCB) and CRZ Authorities.

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Project of M/s. Honnavar Port Pvt. Ltd.,

3. The Proponent shall obtain the construction material such as stones and jelly etc. only from the approved quarries and other construction material shall also be procured from the authorized agencies/traders.
4. The proponent shall obtain approval from the competent authorities for structural safety of the building due to earthquake, adequacy of firefighting equipment etc. as per the National Building Code (NBC) including protection measures for lightening etc.
5. At no time, the emissions shall exceed the prescribed limits. In the event of failure of any pollution control system adopted by the unit, the unit shall be immediately put out of operation and shall not be restarted until the desired efficiency has been achieved.
6. No further expansion or modifications in the plant shall be carried out without prior approval of the SEIAA/Ministry of Environment and Forests as the case may be. In case of deviations or alterations in the project proposal from those submitted to this Authority for clearance, a fresh reference shall be made to the Authority to assess the adequacy of conditions imposed and to add additional environmental protection measures required, if any.
7. The project authorities shall strictly comply with the rules and regulations under Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 as amended in October 1994 and January 2000. Authorization from the KSPCB shall be obtained for collection, treatment, storage, and disposal of hazardous wastes.
8. Application of solar energy should be incorporated for illumination of common areas, lighting for gardens and street lighting in addition to provision for solar water heating. A hybrid system or fully solar system for lighting and heating should be provided. Details in this regard should be submitted to the SEIAA.
9. Ambient air quality (RPM, SPM, SO<sub>2</sub>, NO<sub>x</sub>) should be regularly monitored as per the National Ambient Air Quality Emission Standards/Limits prescribed by the Ministry of Environment and Forests, Government of India, vide G.S.R. No. 826(E) dated 16<sup>th</sup> November, 2009 and data submitted to the SEIAA Karnataka, Department of Environment and Ecology, Govt. of Karnataka, Regional Director (Environment), Department of Environment and Ecology, Government of Karnataka, Karwar and the Regional Office, MoEF, Bangalore and the State Pollution Control Board / Central Pollution Control Board once in six months.
10. Fugitive dust emission from all the sources should be controlled regularly. Water spray arrangement on haul roads, loading and unloading and at transfer points should be provided and properly maintained.
11. Personnel working in dusty areas should wear protective respiratory devices and they should also be provided with adequate training and information on safety and health aspects.

Occupational health surveillance program of the workers should be undertaken periodically i.e. once in 3 months to observe any contractions due to exposure to dust and take corrective measures, if needed. Quarterly report in this regard should be submitted to the Department of Environment and Ecology, Govt. of Karnataka, Regional Director (Environment), Department of

- Environment and Ecology, Government of Karnataka, Karwar, the Karnataka State Pollution Control Board and the Regional Office, MoEF, Bangalore.
12. The overall noise levels in and around the plant area shall be kept well within the standards (85 dBA) by providing noise control measures including acoustic hoods, silencers, enclosures etc. on all sources of noise generation. The ambient noise levels shall conform to the standards prescribed under Environment (Protection) Act, Rules, 1989 viz. 85 dBA (day time) and 70 dBA (night time).
  13. The project proponent shall also comply with all the environmental protection measures and safeguards as per the information provided.
  14. The implementation of the project vis-à-vis environmental action plans shall be monitored by MoEF, Regional Office at Bangalore / KSPCB/ CPCB, the Department of Environment & Ecology, Bangalore and the Regional Director (Environment), Department of Ecology and Environment, Karwar. A six monthly compliance status report shall be submitted to monitoring agencies.
  15. The project proponent shall inform the public that the project has been accorded environmental clearance by the SEIAA and copies of the clearance letter are available with the KSPCB and may also be seen at Website of the State Ecology and Environment department at <http://www.seiaa.kar.nic.in>. This shall be advertised within seven days from the date of issue of the clearance letter, at least in two local newspapers that are widely circulated in the region of which one shall be in the vernacular language of the locality concerned and a copy of the same shall be forwarded to the Regional Office of MoEF at Bangalore / KSPCB/ CPCB/ the Department of Ecology & Environment, Government of Karnataka, Bangalore.
  16. The project authorities shall inform the Regional Office of MoEF at Bangalore / KSPCB/ CPCB/ the Department of Ecology & Environment, Government of Karnataka, Bangalore, the date of financial closure and final approval of the project by the concerned authorities and the date of start of the project.
  17. The SEIAA, Karnataka may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.
  18. The SEIAA, Karnataka reserves the right to stipulate additional conditions, if found necessary. The company in a time bound manner will implement these conditions.
  19. The issue of Environment Clearance doesn't confer any right to the project proponent to operate / run the project without obtaining statutory clearances / sanctions from all other concerned Authorities.
  20. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environmental (Protection) Act, 1986.
  21. Any appeal against this environmental clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.
  22. Officials from the Department of Environment, Ecology, Bangalore/ Regional Office of MoEF, Bangalore and the Regional Director (Environment), Department of Ecology and Environment, Karwar who would be monitoring the implementation of Environmental safeguards should be given full cooperation, facilities and documents/ data by the project proponents during

their inspection. A complete set of all the documents submitted to MoEF / SEIAA should be forwarded to the Regional Office of MoEF at Bangalore / KSPCB/ CPCB/ the Department of Ecology & Environment, Government of Karnataka, Bangalore and the Regional Director (Environment), Department of Ecology and Environment, Karwar.

23. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Authority.
24. The Authority reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environment clearance under the provisions of the Environment (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
25. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the competent authorities.
26. These stipulations would be enforced among others under the provisions of water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) act 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification, 2006.

Yours faithfully,

  
(KANWERPAL)  
Member Secretary,  
SEIAA.

**Copy to:**

1. The Secretary, Ministry of Environment & Forests, Government of India, Paryavaran Bhavan, CGO Complex, Lodi Road, New Delhi-110003.
2. The Secretary, Department of Environment and Ecology, Government of Karnataka, Bangalore 560 001.
3. The Member Secretary, Karnataka State Pollution Control Board, Church Street, Bangalore - 560 001.
4. The CCF, Regional Office, Ministry of Environment & Forests (SZ); Kendriya SadaIn, IV Floor, E & F wings, 17<sup>th</sup> Main Road, Koramangala II Block, Bangalore-560 034.
5. The Regional Director (Environment), Department of Ecology and Environment, Karwar.
6. Guard File.

:1:

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 10<sup>th</sup> DAY OF FEBRUARY, 2016

BEFORE

THE HON'BLE MR.JUSTICE B.VEERAPPA

WRIT PETITION NOS.100908-934/2016 (GM-RES)

BETWEEN:

1. HASAN S/O ABUBAKAR SAB  
AGE: 46 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
2. MOHAMMAD S/O KHADARSAB AHMED BABA  
AGE: 52 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
3. SHRIDHAR S/O JAGANNATH OTANDEL  
AGE: 29 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
4. NATEDAR S/O SAVER FERNANDES  
AGE: 49 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
5. SHESHAGERI S/O VENKAPPA TANDEL  
AGE: 51 YEARS,  
R/O: KASARKOD TONKA,

:2:

- TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
6. SANDEEP S/O SHESHAGERI VENKAPPA TANDEL  
AGE: 24 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
  7. MOHAMMED RAFIQUE S/O ISMAIL SAB  
AGE: 37 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
  8. SANJAY S/O PEDRU FERNANDES  
AGE: 35 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
  9. PANDURANG S/O SHESHAGERI CHOLAYYA TANDEL  
AGE: 41 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
  10. ILIYAS ABDUL S/O GAFOOR KEWKA  
AGE: 43 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
  11. ABDUL AMEER S/O MAHAMMEDSAB ULLAL  
AGE: 31 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
  12. HAMJA S/O HASAN SAB  
AGE: 52 YEARS,  
R/O: KASARKOD TONKA,

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TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

13. ABDUL SATTAR S/O ABAS CHAUGULE  
AGE: 68 YEARS,  
R/O: ASHURKHAN GALLI, BUNDER ROAD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
14. ISMAIL S/O ABDUL SATTAR CHAUGULE  
AGE: 39 YEARS,  
R/O: ASHURKHAN GALLI ROAD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
15. NARAYAN S/O RAMA TANDEL  
AGE: 47 YEARS,  
R/O: RAM NAGAR, KASARKOD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
16. PRAKASH S/O OGOPAL TANDEL  
AGE: 45 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
17. STANLOS S/O ALBERT FERNANDES  
AGE: 55 YEARS,  
R/O: R.C. CHURCH ROAD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
18. JOHM S/O ALBERT FERNANDES  
AGE: 52 YEARS,  
R/O: R.C. CHURCH ROAD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
19. JALEEL S/O MOHAMMED SAB  
AGE: 29 YEARS,  
R/O: KASARKOD TONKA,

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TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

20. KASEEM S/O ABDUL SAB  
AGE: 50 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
21. ROSHAN S/O FELISON FERNANDES  
AGE: 38 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
22. FELISON S/O MARSHAL FERNANDES  
AGE: 69 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
23. DANNISH S/O SANTAN FERNANDES  
AGE: 64 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
24. SURESH S/O RUKMAYYA MESTA  
AGE: 52 YEARS,  
R/O: DURGAKERI,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
25. VICTOR S/O MARSHAL FERNANDES  
AGE: 65 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
26. VIJAY S/O VICTOR FERNANDES  
AGE: 35 YEARS,  
R/O: KASARKOD TONKA,

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TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

27. PANDURANG S/O GANAPATI TANDEL  
AGE: 40 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

... PETITIONERS

(BY SRI. J S SHETTY ASSOCIATES, ADVOCATES)

AND:

1. THE STATE OF KARNATAKA  
BY ITS SECRETARY  
DEPARTMENT OF PUBLIC WORKS,  
PORT AND INLAND WATER TRANSPORT (PORT)  
M.S. BUILDING, BENGALURU.
2. THE DIRECTOR,  
PORT AND INLAND WATER TRANSPORT DEPARTMENT  
KARWAR, DIST: UTTARA KANNADA.
3. THE PORT OFFICER  
HONNAVAR PORT,  
TQ: HONNAVAR,  
DIST: UTTARA KANNADA.
4. THE M/S NORTH CANARA SEA PORTS  
GVPREL - CONSORTIUM,  
HYDARABAD.  
R/B PORT OFFICER
5. THE DEPUTY COMMISSIONER  
UTTARA KANNADA DISTRICT  
KARWAR.

... RESPONDENTS

(BY SMT. K. VIDYAVATHI, AGA FOR R1 TO R3 &amp; R5)

:6:

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE GOVERNMENT ORDER DATED:22.09.2010, PASSED BY RESPONDENT NO.1, THE COPY OF WHICH HAS BEEN PRODUCED HERewith AT ANNEXURE-A, THE NOTICE DATED:19.10.2015 ISSUED BY THE 3<sup>rd</sup> RESPONDENT, THE COPY OF WHICH HAVE BEEN PRODUCED HERewith AND MARKED AS ANNEXURE-B SO FAR AS PETITIONERS ARE CONCERNED AND ALSO THE NOTICES DATED:24.11.2015, ISSUED BY THE 3<sup>rd</sup> RESPONDENT TO THE PETITIONERS, THE COPIES OF WHICH HAVE BEEN PRODUCED HERewith AND MARKED AS ANNEXURES-C, C1 TO C26.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

#### ORDER

Learned AGA is directed to take notice for respondent Nos.1 to 3 and 5.

The petitioners, who are the unauthorised occupants of the Government land, are before this Court for a writ of certiorari to quash the Government Order No.LOE 119 PSP 2010 Bangalore dated 22.09.2010 passed by the respondent No.1 and the notices No.BHUMI/CR-22/2015-16 dated 19.10.2015 and 24.11.2015, issued by the 3<sup>rd</sup> respondent.

2. It is the case of the petitioners that they are the residents of Tonka, Kasarkod village of Honnavar taluk and all of

:7:

them are doing traditional fisheries and allied activities and they are traditionally drying the fish so collected from the sea, in the sea shore by using the heat generated from the sun light. These fishermen are even though belonging to different social groups, caste and religion all of them are doing the said traditional fishing work and they and their family members are mainly depending on the income of said work for their livelihood. There were about 300 families who are residing in the Tonka area of Kasarkod village and the population of the area is about 1000 and they are mainly depending on the said fishing activities. There are about 5000 people who are mainly depending on the said fisheries and its allied activities, and the said activities being carried on by these petitioners from generations and generations and there were no complaint whatsoever against the petitioners and against the other persons in respect of the said activities. They also contended that there exists a temple, Christian Church and also Muslim Mosques in that area. It is also contended that the area where the petitioners are carrying on their fisheries activities is surrounded

: 8 :

by the Arabian Sea on the western side and the Sharavati River on the Eastern side and the river Shavravati is joining the Arabian sea in the said area. The petitioners produced the map showing location of the said area in Annexure-E and Toposheet of Survey of India as Annexure-F and also produced the sketch prepared in the year 1923 by the Superintendent of Revenue Survey Government Cottedance Office Puna at Annexures G to G1 and copies of the Earth Image prepared by the Google Earth in the year 2004 and 2015 at Annexures – H, H1, H2, H3 and H4.

3. According to the petitioners, due to the reason of the flood and also due to reason of force of water joining the sea the river Sharavati changed its course of joining the sea and as a result of which some area had disappeared and river started to join the Arabian Sea at Mallakuruva. As a result of which, the area where in the fishermen were living had sub-merged in the sea and river water and some abandoned river bed and formed the new land and as a result of which the fisherman who were residing in the area now sub-merged in the sea water, were compelled to shift to

:9:

the new area which was then formed and they have started to carry on their activities in the said area. The petitioners further contended that the 1<sup>st</sup> petitioner has been assessed to tax by the Gram Panchayat and he paid taxes in respect of the shed constructed by him and all the petitioners are in possession and enjoyment of the lands in question uninterruptedly.

4. It is further case of the petitioners that the land in question is a Alluvial land and the petitioners are entitled for temporary use thereof and further contended that the 3<sup>rd</sup> respondent – Port Officer, without any authority of law, had issued notice calling upon the petitioners to dismantle their houses and sheds where in the petitioners are carrying their fisheries activities and he had also issued the notice stating that this land have been granted by the Government in favour of 4<sup>th</sup> respondent, the petitioners without any right are continuing in possession and he has further directed the petitioners to vacate the land in question by removing the sheds. The copies of the

: 10 :

notices issued by the 3<sup>rd</sup> respondent is produced at Annexures – B, C and C1 to C26.

5. Thereafter, the petitioners filed objections in response to the said notice by Annexures – L, L1 to L26. However, the said objections are not all considered by the authorities till today. It is further case of the petitioners that, they made representation to the Deputy Commissioner to grant the said lands in their favour. In spite of the same, the Deputy Commissioner has not yet considered to pass orders. In the meanwhile, the respondents are threatening to evict the petitioners and hence they are before this Court.

6. I have heard the learned Counsel for the parties to the lis.

7. Sri. J. S. Shetty, learned Counsel for the petitioners, contended that the lands in question are Alluvial lands and the petitioners are entitled for grant under the provisions of Sections 80 and 92 of the Karnataka Land Revenue Act. Before taking any

: 11 :

action for grant of land in response to the applications filed by the petitioners, the respondents cannot evict the present petitioners, who are in possession and enjoyment of the respective sheds for more than 30 years. He also contended that the Deputy Commissioner has not initiated any action to consider the representation filed by the petitioners on 17.12.2015. Therefore, he sought to allow the above writ petitions.

8. Per contra, on issuing notice by the Court, Smt. Vidyavathi, learned AGA appeared for respondents 1 to 3 and 5, contended that the petitioners have not come to the Court with clean hands and they have suppressed the material facts of the case. She contended that there were three notices issued to the petitioners directing them to evict from the unauthorised occupation of the sheds unauthorisedly constructed by them in the land in question. The learned AGA brought to the notice of this Court that all the petitioners filed appeals in M.A.Nos.1/2016 to 27/2016 before the District Judge Court, U.K. Karwar at Karwar and the said appeals are pending. In the said appeals, the

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petitioners also referred the present writ petitions at Para 8 of the appeal memo, which reads as under:

*“8. The appellant and other has jointly challenged the order sanctioning the land occupied by them to the third party before the Hon’ble High Court of Karnataka at W.P.No.100908/2016 to 100934/2016. The matter is pending. This has been brought to the notice of the respondent No.3.”*

Therefore she contended that the very writ petitions filed by the petitioners against show cause notices are premature and are liable to be dismissed. She further vehemently contended that the petitioners cannot avail the parallel remedies simultaneously before this Court as well as before the District Judge, Karwar, against the same show cause notices. The learned AGA also brought to the notice of this Court that Annexure-A is passed by the State Government leasing five acres for ten years in favour of the 4<sup>th</sup> respondent and now the same is transferred to SPV,

: 13 :

Honnagara Ports Pvt. Ltd., on 07.04.2011. Therefore, she sought to dismiss the writ petitions.

9. I have given my anxious consideration to the arguments advanced by the learned Counsel for the parties and perused the entire material on record.

10. Insofar as challenge in respect of Annexure-A passed by the State Government granting lease of five acres for ten years, on lease-cum-rental basis for Rs.1,17,560/- in favour of the respondent No.4, it is an admitted fact that all these petitioners are unauthorised occupants of the Government land. They have no *locus standi* to challenge the order passed by the State Government leasing the lands in question in favour of other person. The petitioners have not produced any material documents before this Court to show what is their right to challenge the order dated 22.09.2010 passed by the State Government. Admittedly, the State Government is the owner of the property in question. In the absence of any right, title and interest, the petitioners cannot question the same. Therefore, the

: 14 :

writ petition filed by the petitioners insofar as Annexure-A is concerned, is without any right. The same cannot be accepted. On that ground alone, the writ petitions filed by the petitioners are liable to be dismissed.

11. Insofar as Annexures – B, C and C1 to C26 are concerned, it is not in dispute that the very impugned notices issued by the respondent No.3 – Port Officer, are the subject matter in the appeals before the learned District Judge, Karwar in M.A. Nos.1 to 27 of 2016, which clearly indicates that the petitioners are seeking parallel remedies simultaneously against the same show cause notices, before the District Judge as well as before this Court which is impermissible in law.

12. It is also not in dispute that in response to the notices issued at Annexures – B, C and C1 to C26 dated 19.10.2015, 24.11.2015 and 30.12.2015 respectively, the petitioners filed objections before the 3<sup>rd</sup> respondent – Port Officer on 04.01.2016, as per Annexures – L and L1 to L26. If that is so, the writ petitions filed by the petitioners against the show cause

: 15 :

notices stated supra are not maintainable and the same are liable to be dismissed. It is for the 3<sup>rd</sup> respondent to consider the objections filed by the petitioners to all the show cause notices dated 19.10.2015, 24.11.2015 and 30.12.2015 and pass orders in accordance with law.

13. Insofar as the contention of the learned Counsel for the petitioners that the petitioners have made the representations for grant of land as per Annexure-D dated 17.12.2015 cannot be accepted, the subject mentioned in Annexure-D clearly depicts that the eviction of unauthorised occupation by the petitioners in survey No.305 and in the operative portion they only states, if the authorities come to conclusion that if it is an Alluvial land, the authorities can grant the same to them. Admittedly, in the representation made by the petitioners on 17.12.2015, in respect of the eviction of unauthorised occupation, the details regarding which are the property and what is the extent and how many years they are in possession of the property etc. are not forthcoming. It is for the petitioners to approach the authorities, if the land is

: 16 :

available for grant, and ultimately, if the petitioners are able to prove that it is an Alluvial land, it is for the concerned authority to condone the same and pass appropriate orders in accordance with law. Therefore, the said contention of the petitioners cannot be accepted.

14. The learned Counsel for the petitioners further relied upon the judgment of this Court in the case of *Satish and Ors. Vs. The Deputy Commissioner, Bagalkot Taluk and Ors.* reported in 2015 (4) KLJ 95 in support of his arguments. The said judgment is with regard to Alluvial lands under the provisions of Section 92 of the Karnataka Land Revenue Act. Admittedly, in the present case, the petitioner has not produced any material documents before the Court that the lands in question are Alluvial lands. In the absence of the same, the judgment relied upon by the learned Counsel for the petitioners, has no application to the facts and circumstances of the present case.

15. It is a well settled law by a series of decisions of the Apex Court that no writ lies against the show cause notice,

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namely, in the case of *Executive Engineer, Bihar State Housing Board Vs. Ramesh Kumar S* reported in JT(1995) 8 SC 331, *Special Director Vs. Mohd. Ghulam Ghouse* reported in AIR 2004 SC 1467 and in the case of *State of U.P. Vs. Brahm Datt Sharma* reported in AIR 1687 SC 943. Further, the Hon'ble Supreme Court in the case of *Union of India and Another Vs. Kunishetty Satyanarayana* reported in AIR (2006) 12 SCC 28, while considering the departmental enquiry, has held that the writ jurisdiction is discretionary jurisdiction and as such, discretion under Articles 226 and 227 should not ordinarily be exercised by quashing show notice and no doubt in some very rare and exceptional cases, the High Court can quash notice, if it is found to be wholly without jurisdiction or for some other reason, which is wholly illegal. However, ordinarily, the High Court should not interfere in such matters.

16. In the present case, the petitioners are in unauthorised occupation of the Government Land and the show cause notices were issued to the petitioners calling for the explanation as to why

: 18 :

action should not be taken against them within fifteen days from the receipt of notice, by producing relevant documents sought in the impugned notices and the petitioners already approached the District Judge by filing appeals in M.A.Nos. 1 to 27 of 2016 against the very same show cause notices, which nothing but seeking parallel remedies simultaneously, and the petitioners have not made out any rare and exceptional cases, so as to exercise discretionary jurisdiction of this Court. It is not a case of the petitioners that in the present case that notices issued are only without jurisdiction, nor the notices are otherwise illegal and not a case that the impugned notices are issued without application of mind. Therefore, the writ petitions are not maintainable.

In view of the aforesaid reasons, the writ petitions filed by the petitioners are dismissed as premature. However, the respondents are directed to consider the representations of the petitioners and pass appropriate orders in accordance with law. Till such consideration of the representations, the respondents shall not dispossess the petitioners from the lands in question.

: 19 :

Learned AGA is permitted to file memo of appearance  
within four weeks.

Sd/-  
JUDGE

gab

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IN THE HIGH COURT OF KARNATAKA  
 DHARWAD BENCH

DATED THIS THE 20<sup>TH</sup> DAY OF SEPTEMBER, 2016

PRESENT

THE HON'BLE MR. JUSTICE ASHOK B. HINCHIGERI

AND

THE HON'BLE MR. JUSTICE P. S. DINESH KUMAR

W.A.NOs.100303/2016 & 101144-101169/2016 (GM-RES)

BETWEEN:

1. HASAN S/O ABUBAKAR SAB  
 AGE: 46 YEARS,  
 R/O: KASARKOD TONKA,  
 TALUK: HONNAVAR,  
 DIST: UTTARA KANNADA.
2. MOHAMMAD  
 S/O KHADARSAB AHMED BABA  
 AGE: 52 YEARS,  
 R/O: KASARKOD TONKA,  
 TALUK: HONNAVAR,  
 DIST: UTTARA KANNADA.
3. SHRIDHAR S/O JAGANNATH TANDEL  
 AGE: 29 YEARS,  
 R/O: KASARKOD TONKA,  
 TALUK: HONNAVAR,  
 DIST: UTTARA KANNADA.

102 - 2/56 / K-13 / FC  
 05/11/2016

CND

4. NATEDAR S/O SAVER FERNANDES  
AGE: 49 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
5. SHESHAGERI S/O VENKAPPA TANDEL  
AGE: 51 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
6. SANDEEP S/O SHESHAGERI VENKAPPA TANDEL  
AGE: 24 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
7. MOHAMMED RAFIQUE S/O ISMAIL SAB  
AGE: 37 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
8. SANJAY S/O PEDRU FERNANDES  
AGE: 35 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
9. PANDURANG  
S/O SHESHAGERI CHOLAYYA TANDEL  
AGE: 41 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

10. ILIYAS ABDUL S/O GAFOOR KEWKA  
AGE: 43 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
11. ABDUL AMEER S/O MAHAMMEDSAB ULLAL  
AGE: 31 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
12. HAMJA S/O HASAN SAB  
AGE: 52 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
13. ABDUL SATTAR S/O ABBAS CHAUGULE  
AGE: 68 YEARS,  
R/O: ASHURKHAN GALLI,  
BUNDER ROAD, TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
14. ISMAIL S/O ABDUL SATTAR CHAUGULE  
AGE: 39 YEARS,  
R/O: ASHURKHAN GALLI ROAD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
15. NARAYAN S/O RAMA TANDEL  
AGE: 47 YEARS,  
R/O: RAM NAGAR, KASARKOD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

16. PRAKASH S/O.GOPAL TANDEL  
AGE: 45 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
17. STANLOS S/O ALBERT FERNANDES  
AGE: 55 YEARS,  
R/O: R.C. CHURCH ROAD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
18. JOHM S/O ALBERT FERNANDES  
AGE: 52 YEARS,  
R/O: R.C. CHURCH ROAD,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
19. JALEEL S/O MOHAMMED SAB  
AGE: 29 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
20. KASEEM S/O ABDUL SAB  
AGE: 50 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
21. ROSHAN S/O FELISON MARSHAL FERNANDES  
AGE: 38 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

22. FELISON S/O MARSHAL FERNANDES  
AGE: 69 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
23. DANISH S/O SANTAN FERNANDES  
AGE: 64 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
24. SURESH S/O RUKMAYYA MESTA  
AGE: 52 YEARS, R/O: DURGAKERI,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
25. VICTOR S/O MARSHAL FERNANDES  
AGE: 65 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
26. VIJAY S/O VICTOR FERNANDES  
AGE: 35 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.
27. PANDURANG S/O GANAPATI TANDEL  
AGE: 40 YEARS,  
R/O: KASARKOD TONKA,  
TALUK: HONNAVAR,  
DIST: UTTARA KANNADA.

... APPELLANTS

(BY SRI J. S. SHETTY ASSOCIATES, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA  
BY ITS SECRETARY  
DEPARTMENT OF PUBLIC WORKS,  
PORT AND INLAND WATER TRANSPORT (PORT)  
M.S. BUILDING, BENGALURU
2. THE DIRECTOR,  
PORT AND INLAND WATER TRANSPORT  
DEPARTMENT KARWAR, DIST: UTTARA KANNADA.
3. THE PORT OFFICER  
HONNAVAR PORT,  
TO: HONNAVAR,  
DIST: UTTARA KANNADA.
4. THE M/S NORTH CANARA SEA PORTS  
GVPREL-CONSORTIUM,  
HYDARABAD.  
REPRESENTED BY PORT OFFICER.
5. THE DEPUTY COMMISSIONER  
UTTARA KANNADA DISTRICT  
KARWAR.

...RESPONDENTS

(BY SMT. K. VIDYAVATHI, AGA FOR R1 TO R3 &amp; R5)

THESE WRIT APPEALS ARE FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961 PRAYING TO SET ASIDE THE ORDER DATED 10.02.2016 PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.100908-934/2016.

THESE APPEALS COMING ON FOR PRELIMINARY HEARING THIS DAY, ASHOK B.HINCHIGERI, J. DELIVERED THE FOLLOWING:

JUDGMENT

These appeals are directed against the learned Single Judge's order, dated 10.02.2016 passed in W.P.Nos.100908-934/2016. The appellants claim that earlier they were residing in the areas which came to be submerged under sea and river water. They were therefore constrained to shift to the newly formed areas near the said water. The Government, vide its order dated 22.09.2010 (Annexure - A), leased the land to M/s. North Canara Sea Ports GVPREL-Consortium, Hyderabad, the respondent No.4 herein, for a period of thirty years. The respondent No.3 issued the notice, dated 19.10.2015 (Annexure-B) to the persons, who had unauthorisedly occupied the said land and constructed the cottages/sheds. Subsequently, the individual show-cause notices (Annexures-C1 to C26) were also issued to the unauthorised occupants. The said Government Order, notice and individual show-cause notices were impugned before the learned Single Judge, who

by his order, dated 10.01.2016 disposed of the writ petitions with a direction to the respondents to pass appropriate orders on the notices issued to the appellants and the replies received thereto. He also directed the respondents not to dispossess the petitioners from the land in question until such time that their representations are considered.

2. Sri J. S. Shetty, learned counsel for the appellants submits that the learned Single Judge has erred in returning the finding that the lands in question are not alluvial lands. He asserts that the lands in question are newly formed on account of the change in the course or direction of the flow of the sea and river water. He submits that what is challenged before the District Court in M.A.No.1 to 27/2016 are the orders passed by the authorities under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act. He submits that the filing of the said appeals before the District Judge is also not withheld from this Court. On the ground of the appellants filing the said appeals, the relief cannot be denied to them in the writ petition, where the challenge is primarily to the Government Order

granting the lease of the lands to the respondent No.4 for a period of 30 years. He has also relied upon the Division Bench decision in the case of *Satish and Ors. Vs. The Deputy Commissioner, Bagalkot Taluk and Ors. reported in KANTLJ-2015-4-95.*

3. Smt. K. Vidyavathi, learned Additional Government Advocate who appears for the respondent Nos. 1 to 3 and 5 submits that the Government order granting the lease of land to the respondent No.4 is issued in 2010. After five long years, the appellants approached this Court. She would contend that the writ petition is liable to be rejected on the ground of delay and laches.

4. She would submit that the Port Officer called upon the appellants to produce five specific documents. Without producing any documents, the appellants have given the replies.

5. The submission of the learned counsel have received our thoughtful consideration. The challenge to the impugned Government order dated 22.09.2010 is liable to be negatived on the ground of delay and laches. No cogent explanation is forthcoming

as to why the appellants took 5-6 years to challenge the Government Order granting the lease of the land to the respondent No.4. We notice that the learned Single Judge has indeed given interim protection to the appellants. Admittedly and rightly the appellants have submitted the replies to the impugned show cause notices. Until such time that their explanation is considered, the crisis should not be precipitated. That is why the learned Single Judge has directed the respondents not to dispossess the petitioners from the land in question until such time that their representations are considered.

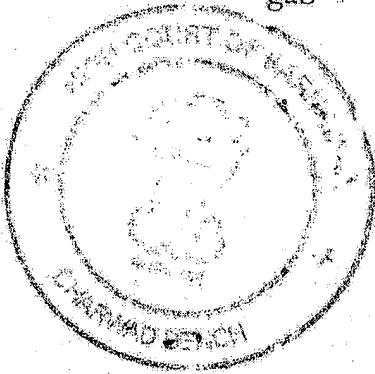
6. We find the learned Single Judge's order to be balanced. It does not call for any interference. All that is required to be done is to observe that the respondent No.3, to whom the explanation is offered by the appellants and the District Court, which is seized of the matter in M.A Nos. 1 to 27/2016, would dispose of the said matters pending before them independently of and without being influenced by the learned Single Judge's order.

7. Further, if the Government comes to the judicious conclusion that the appellants have the eligibility and entitlement to the grant/lease of land, it may consider their cases in respect of the alternative Government lands subject to their availability. With these observations, these appeals are disposed of.

Sd/-  
JUDGE

Sd/-  
JUDGE

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**COPY**

Assistant Registrar  
High Court of Karnataka,  
Dharwad Bench

28/10/12 3/2

**IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR**

**Present: Sri. S S Nakul,**  
Deputy Commissioner,  
Uttar Kannada, Karwar.

**No. RB/LND-II/CR-72/12-13**

**Between**

- |                                  |                         |
|----------------------------------|-------------------------|
| 1. Pandurang Sheshageri Tandel   |                         |
| 2. Iliyas Gafoor Sab             |                         |
| 3. Hamza Hasan Sab               |                         |
| 4. Abdul Ameer Mohammed Sab      | - Present               |
| 5. Sanjay Pedru Fernandes        |                         |
| 6. Mohammed Rafiq Ismail Sab     |                         |
| 7. Nacidar Saver Fernandes       | - Present               |
| 8. Narayan Venkappa Tandel       |                         |
| 9. Shashidhar Jaganath Tandel    |                         |
| 10. Mohammed Khadar Sab          |                         |
| 11. Hasan Abubakar Sab           | - Present               |
| 12. Victor Marshall Fernandes    | - Present               |
| 13. Kasim Abdul Sab              | - Present               |
| 14. Jahl Mohammed Sab            |                         |
| 15. Roshan Felison Fernandes     |                         |
| 16. Felison Marshall Fernandes   |                         |
| 17. Stanlos Albert Fernandes     |                         |
| 18. John Albert Fernandes        |                         |
| 19. M A Hasan (Saleem Patel)     | - Present               |
| 20. Narayan Rama Tandel          |                         |
| 21. Abdul Sattar Chaugule        |                         |
| 22. Prakash Gopal Tandel         |                         |
| 23. Sandeep Sheshageri Tandel    |                         |
| 24. Pandurang Ganapati Tandel    | - Present               |
| 25. Ismail Abdul Sattar Chaugule |                         |
| 26. Suresh Rukmayya Mesta        |                         |
| 27. Dannish Santan Fernandes     | - Present               |
| 28. Sheshageri Venkappa Tandel   |                         |
| 29. Vijay Fernandes              |                         |
| R/o Kasarkod Tq: Honnavar        | .... <b>Petitioners</b> |

V/s

- |  |                         |
|--|-------------------------|
| 1. The Port Director,<br>Honnavar Port,<br>Tq. Honnavar<br>Dist: Uttar Kannada           |                         |
| 2. The M/s North Canara Sea Ports<br>GVPREL-Consortium<br>Hyderabad<br>R/B Port Officer. | .... <b>Respondents</b> |

Sub: On the Application of Sri. Panduranga Sheshgiri Tandel and  
28 others dated: 17-12-2015

**Preamble:**

The brief facts of the case of petitioners that they are permanent residents of Kasarkod Tonka in Honnavar Taluk in Uttar Kannada District since from the time of their ancestors. It is also stated that they are fishermen and doing traditional fishing and mainly depending on the same for their livelihood. It is also stated that Sy No. 305 of Honnavar Taluk is totally

measuring 93 acres and situated on the Arabian Sea and Sharavati River. There are 300 families and 500 people belonging to different castes and religion are settled there. The said land is standing in the name of Government of Karnataka and all the revenue documents like RTC and Mutation are standing in the name of Government of Karnataka and since they have settled in the said Government land and requested the authorities to grant the said land in their respective names. However, Port Authorities issued a notice for evict them from the said land. Against that they filed WP No. 100908-934/2016(GM-RES) and it was ended in dismissal by order dated: 10-02-2016 on the following grounds and observations:

1. WP is a premature only challenging the eviction notice.
2. Writ Petitioners have no documents to show they are having right, title or possession over the said land.
3. There are simultaneous petitions filed before District Court, Karwar in MA No. 1/2016 for the same relief.
4. The petitioners are unauthorized occupants of Government land and so no relief can be granted and dismissed the WP with the following observations.

"In view of the above said reasons the Writ Petitions filed by the petitioners are dismissed as premature. However, The Respondents are directed to consider the representations of the petitioners and pass appropriate orders in accordance with law. Till such consideration of the representations, the Respondents shall not disposes the petitioners from the lands in question".

On verification it is observed that said lands have been granted on lease for 30 years to M/s North Canara Sea Ports GVPREL- Consortium represented by its Director Mr. Khwaja Masihuddin Khan by agreement dated: 02-05-2015 for improving the same as Port under Government Order No. dated: 18-03-2010 with some conditions and thereafter it has to be returned back to the Government with structures and improvements made thereon.

After issue of notices to the above applicants they have appeared in person and submitted copies of documents and contended that since long time they and their elders have been stayed there and doing fishery business and they have no other land to stay or to run the business and therefore requested for grant the said land to them. On the other hand the Port Authorities have opposed the same on the ground that separate 24.20 acres of Port land in Sy No. 303 situated at Kasarkod village have been granted to same petitioners which is 2Kms away from this place and there are no grounds to grant the Government land once again.

Further, the present land in Sy No. 305 is coming under CRZ area and no such person can stay there. Revenue documents like RTC, Mutation are all standing in the name of Government of Karnataka.

The Petitioner No.4 Abdul Ameer Mohammed Sab has submitted the following documents.

- a) 2 photos of shed.
- b) Xerox Copies of 03 Tax paid receipts
- c) Xerox Copy affidavit.
- d) Xerox Copy Tax site map.
- e) Xerox Copy of RTC of Sy.No. 305.
- f) Xerox Copy of application for regularization.
- g) Xerox Copy Bank pass book.
- h) Xerox Copy of survey Sketch with list of encroachers.
- i) Xerox Copy of enquiry notice issued by D.C. office on 18-10-2016.
- j) Xerox Copy of order sheet of Misc Appeal 11/16 before Dist Court Karwar.
- k) Xerox Copy of affidavit.
- l) Xerox Copy of order sheet of M.A./11/2016.
- m) Xerox Copy advocate notice.
- n) Xerox Copy of Writ appeals of order of writ appeal no 100303/2016 and 101144/10/11/69/2016 ( GM-RES) between Hassan Abubakar Sab and others V/s State of Karnataka and others dated 20-9-2016 of the file Hon'ble High Court Dharwad.

The Petitioner No.7 Natidar Saver Fernandes has submitted the following documents.

- a) Photo of shet.
- b) Xerox Copy of Residential certificate issued by Panchayat Development Officer Gram Panchayat Kasarkod Taluka Honnavar.
- c) Xerox Copy of Ration Card.
- d) Xerox Copy of Voter ID Card.
- e) Xerox Copy 05 Tax paid receipts.
- f) Xerox Copy of Acknowledgement.
- g) Xerox Copy of Application for regularization of unauthorized constructions.
- h) Xerox Copy of Mutation entry No H/72 of Sy. No.276\*/a1 and 305.
- i) Xerox Copy of RTC of Sy.no 305.
- j) Xerox Copy of statement recorded by Port officer dated 22-8-2016.
- k) Xerox Copy of Adhar card and voter ID.
- l) Xerox Copy of map with list of encroachers.
- m) Xerox Copies of 06 Telephone bills.

The Petitioner No.11 Hasan Abubakar Sab has submitted the following documents

- a) Xerox Copy of the photo.
- b) Xerox Copy of the Map with list of encroachers.
- c) Xerox Photo Copy the survey map.
- d) Xerox Copy of the RTC Sy.No.21/1 of Pavinkurva village of Honnavar Taluka
- e) Xerox Copy of the order of sanction of Janata plot issued by Block Xerox Development Officer dated 18-9-1982.
- f) Xerox Copy of Form No. 10 for having obtained occupancy rights for an area of 3-28-0 (A-G-A) of Pavinkurva village in Honnavar Taluk.
- g) Xerox Copy of Notice issued by Tahasildar Honnavar encroachment of the said land.
- h) Xerox Copy of Mutation extract No H -72 pertaining to Sy. 276/a1,305.
- i) Xerox Copy of statement recorded by Port officer dated 22-8-2016.
- j) Xerox Copy of Voter ID.
- k) Xerox Copy of Adhar Card.

The Petitioner No.12 Hasan Abubakar Sab has submitted the following documents.

- a) Photo of shed
- b) Xerox Copy of Telephone letter from BSNL dated 21-3-2016.
- c) Xerox Copies of Telephone bills
- d) Xerox Copy of School leaving Certificate
- e) Xerox Copy of Map of Site
- f) Xerox Copy of RTC of Sy. No. 305

- g) Xerox Copy of Voter ID
- h) Xerox Copy of Adhar Card
- i) Xerox Copy of Ration Card.

The Petitioner No.13 Kasim Abdul Sab has submitted the following documents.

- a) Xerox Copy of RTC of Sy. 305.
- b) Xerox Copy Tax paid receipt.
- c) Xerox Copy of Notice issued by Tahasildar Honnavar encroachment of the said land.
- d) Xerox Copy of Site Map.

The Petitioner No.15 Roshan Felison Fernandes has submitted the following documents.

- a) Xerox Copy of Photo of Shed.
  - b) Xerox Copy of the Map with list of encroachers.
  - c) Xerox Copy of RTC Sy. No 305.
  - d) Xerox Copy of Ration Card.
  - e) Xerox Copy of Adhar Card.
  - f) Xerox Copy of order sheet of MA 22/2016 of the file of Hon'ble Principal District Court U. K. Karwar.
  - g) Xerox Copy of appeal memo.
  - h) Xerox Copy of Interim application-1
  - i) Xerox Copy affidavit.
- Xerox Copy of statement recorded by Port officer dated 22-8-2016.

The Petitioner No.24 Pandurang Ganapati Tandel has submitted the following documents.

- a) Photo of Shed.
- b) Xerox Copy of notice issued by D.C. Karwar on 18-0-2016.
- c) Xerox Copy of photo of shed.
- d) Xerox Copy of Ration Card.
- e) Xerox Copy of Voter ID card.
- f) Xerox Copy of Adhar Card.
- g) Xerox Copy of acknowledgement.
- h) Xerox Copies of Site maps.
- i) Xerox Copy of RTC of Sy. No 305.
- j) Xerox Copy of order sheet of Misc Appeal 27/2016 before Dist Court Karwar.
- k) Xerox Copy of Interim application 1 with affidavit, order sheet.
- o) RTC of Sy. No. 628A/2A and 628A/2K of Honnavar village of Honnavar Taluk.
- l) Xerox Copy of statement recorded by Port officer dated 22-8-2016.
- m) Xerox Copy of advocate notice.
- n) Xerox Copy of Writ appeals of order of writ appeal no 100303/2015 and 101144/10/11/69/2016 ( GM-RES) between Hassan Abubakar Sab and others V/s State of Karnataka and others dated 20-9-2016 of the file Hon'ble High Court Dharwar.

The Petitioner No.27 Dannish Santan Fernandes has submitted the following documents.

- a) Photo of Shed
- b) Xerox Copy of Telephone bill.
- c) Xerox Copy of acknowledgement.
- l) Xerox Copy of 02 Notice issued by Tahasildar Honnavar encroachment of the said land.
- m) Xerox Copy of show cause notice issued by Deputy Tahasildar Nadkacheri Manki on 11-02-2016 for eviction.
- n) Xerox Copy of Adhar Card.
- o) Xerox Copy of Residential certificate issued by Panchayat Development Officer Gram Panchayat Kasarkod Taluka Honnavar.
- p) Xerox Copies of application dated 4-12-2015 and 4-1-2016 submitted to D.C. Uttar Kannada Karwar and Port Officer Honnavar.
- q) Xerox Copies of 04 Telephone bills.

- r) Xerox Copy of statement recorded by Port officer dated 22-8-2016.
- d) Xerox Copy of Ration Card.
- e) Xerox Copies of of Tax paid receipts.
- f) Xerox Copies of 02 site maps.
- g) Xerox Copy of notices issued by Tahasildar Honnavar for eviction.
- h) Xerox Copy of RTC of Sy. No. 528A/2A.
- i) Xerox Copy of Writ appeals of order of writ appeal no 100303/2016 and 101144/10/11/69/2016 ( GM-RES) between Hassan Abubakar Sab and others V/s State of Karnataka and others dated 20-9-2016 of the file Hon'ble High Court Dharwar.

The petitioner No.11 Hasan Abubakar Sab argued that land in Sy.No. 21/1 was granted to him and he produced the form No. 10 and now the same Sy.No. has become Sy.No. 300 and accordingly he produced the documents as stated above.

The Petitioner No 4 Abdul Ameer Mohammed Sab submitted that his father has purchased the said land and paying tax to gram panchayath from 2009-10.

The Petitioner No. 19 M.A.Hassan stated that 107 persons were given lands and they are all in possession of the same.

The Petitioners in general have claimed that they have been in possession of land in contention and same must be granted to them.

On hearing the arguments and perusal of the above records it is clearly made out the all the above said revenue documents like RTC and mutations are standing in the name of Government of Karnataka. As per section 133 of The Karnataka Land Revenue Act 1964 RTC is the best proof of possession. No such RTC's are produced by petitioners. Morethan that the Petitioners have not produced any documents to prove their lawful right, title or possession over the disputed land. Even Hon'ble High Court Dharwad has opined the same <sup>as</sup> revealed from its order.

Now the point arise for my consideration for decision of the above petition is as follows:

Whether the petitioner proves that the petition schedule land is in their lawful possession and enjoyment and entitled for relief as prayed for the petition?

On issue of notices some of the petitioners have appeared in person and submitted that when there was flood in the year 1979 land in Sy No. 21/1 was granted to them and since then petitioners and their ancestors have constructed the sheds and are staying there in the disputed land. It is further submitted that Sy No. 305 of Kasarkod village was also merged with this Sy No. 21/1. It is also to be noted that to clear the doubt regarding the actual Sy No. of the property has been called for from Assistant Director of Land Records, Kumta by order dated: 07-11-2016, who surveyed the land and submitted the report which is available on records which shows that the land in Sy No. 21/1, 282A and 282B are situated 4km away from this Sy No. 305. Therefore, there cannot be any merit in the said contention of petitioners. Said report of Assistant Director of Land Records, Kumta and other documents shows petitioners have no existing right, title or lawful possession over the schedule property. It also shows that the said property exclusively belong to



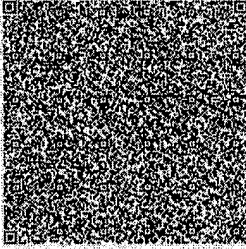
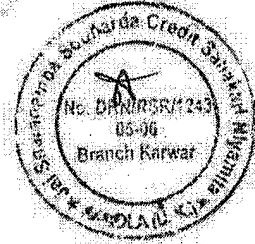


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**INDIA NON JUDICIAL**  
**Government of Karnataka**

**e-Stamp**

Certificate No. : IN-KA16308678754029Q  
 Certificate Issued Date : 12-Mar-2018 03:02 PM  
 Account Reference : NONACC (FI)/ kaksfcl08/ KARWAR4/ KA-KW  
 Unique Doc. Reference : SUBIN-KAKAKSFCL0880777318684621Q  
 Purchased by : M S HONNAVAR PORT PRIVATE LTD  
 Description of Document : Article 12 Bond  
 Description : FOR REGISTRATION OF LEASE AGREEMENT  
 Consideration Price (Rs.) : 0  
 (Zero)  
 First Party : DIRECTOR OF PORTS AND IWT DEPT KARWAR  
 Second Party : M S HONNAVAR PORT PRIVATE LTD  
 Stamp Duty Paid By : M S HONNAVAR PORT PRIVATE LTD  
 Stamp Duty Amount(Rs.) : 100  
 (One Hundred only)



.....Please write or type below this line.....

**Annexure to Government order No:PWD 05 PSP 2013, Dated 16.01.2018**

**FORM - B**

**[See Rule 25-(2)]**

**AMENDED AND RESTATED LEASE AGREEMENT FOR USE OF PORT LAND FOR PORT RELATED ACTIVITIES AND ANCHORAGE OPERATIONS AT HONNAVAR PORT**

This indenture (hereinafter referred to as the "Agreement" or "Amended and Restated Lease Agreement") made on the 14<sup>th</sup> day of March Two Thousand Eighteen between the **Governor of Karnataka** represented by the Director of Ports and Inland

For HONNAVAR PORT PRIVATE LIMITED



**DIRECTOR OF PORTS & IWT  
KARWAR**

**Statutory Alert:**

1. The authenticity of this Stamp Certificate should be verified at: [www.e-stamp.com](http://www.e-stamp.com) available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.

Water Transport in Karnataka (hereinafter referred to as the "Port Authority" or the "Lessor" which expression, shall where the context so admits be deemed to include his successors and permitted assigns) of the **ONE PART**

And

**M/s. Honnavar Port Private Limited** (transferee vide the Government of Karnataka Order No. PWD. 293 PSP 2010 dated April 7th 2011) of all rights of M/s. North Canara Sea Ports- GVPREL- Consortium, Hyderabad (the "Original Lessee") under the lease agreement dated October 11, 2010 (the "Original Lease") a company registered under the Companies Act, 1956 with its Corporate Identity Number U74140KA2010PTC053064 and having its registered office at #103, Lalehzar Apartments, 45/1-2, Palace Road, Bangalore 560 001, Karnataka, India (hereinafter referred to as the "Lessee") which expression shall where the context so admits so be deemed to include its successors and assigns, the representative heirs and legal representatives) of the **OTHER PART**.

Each of the Port Authority/Lessor and the Lessee are referred to individually as a "Party" and collectively as the "Parties".

**WHEREAS**

- A. The Original Lessee had applied to the State Government of Karnataka for obtaining licence to use port land specified in **Schedule A** here underwritten and shown in the plan attached for the purpose of port related activities and to carry out the anchorage operations at Honnavar Port and the Government of Karnataka has accorded the necessary sanction in the matter under its order No. 119 PSP 2010 dated September 22, 2010 ("Government Order").
- B. In terms of the said Government Order, 8, 47,560 Sq. Mts. (as approved and indicated in the maps annexed as plan "A" & "B" therein) of the port land is kept reserved to facilitate M/s. North Canara Sea Ports- GVPREL- Consortium, Hyderabad to develop infrastructure by constructing jetty in Honnavar Port and at Kasarkod side of Honnavar Port to carry on anchorage operations subject to obtaining approval from the competent concerned authorities/departments.
- C. Thereafter the Original Lessee entered into the Original Lease with the Government of Karnataka to develop the infrastructure as mentioned below and to carry out anchorage operations at the proposed project, at Honnavar Port and Kasarkod side of Honnavar Port for a period of 30 (thirty) years.
- (i) Construction of jetty measuring 200-220 mtrs. length and 5-6 mtrs. depth in Honnavar Port.
  - (ii) Reclamation of 40,000 sq. mtrs. Land in the first phase in the backup area of the above said jetty.
  - (iii) Reclamation of 36,000 sq. mtrs. of port land below the Honnavar Bridge in Honnavar Port for vehicle terminal.
  - (iv) Reclamation of the low laying area in the corner of Sharavathi bridge and construction of road measuring 130 x 12 mtrs. (total 1,560 sq. mtrs) to give entry to Honnavar Port from National Highway - 17.

For HONNAVAR PORT PRIVATE LIMITED

Authorised Signatory



DIRECTOR OF PORTS & I.W.T  
KARWAR

- (v) Construction of jetty measuring 200-220 mtrs. length and 5-6 mtrs. depth in the Kasarkod side of Honnavar Port.
- (vi) Improvement of 40,000 sq. mtrs. land in the backup area of the said Kasarkod jetty i.e. in the south side where Sharavathi river and Arabian sea joins at the spit which is naturally filled up space for anchorage operations in the first phase.
- (vii) Construction of channel by dredging 2.5 km long and 5-6 mtrs. depth.
- (viii) Construction of 500 mtrs. long break water.  
(Hereinafter collectively referred to as the "Project").

D. Now the Lessee has approached the Lessor and requested for inclusion of certain enabling clauses to protect the interests of the Lenders providing financial assistance to the Lessee to finance construction and development of infrastructure on port lands at Honnavar as envisaged in the Lease Agreement and to fund working capital requirements with respect to the operations and management thereof. The Lessor has considered the request of the Lessee and agreed to enter into this Amended and Restated Lease Agreement in replacement of the Original Lease.

#### NOW THIS AGREEMENT WITNESSES

The grant of the lease for use of the Port land is subject to the following conditions:-

#### DEFINITIONS:

"Debt Due" means the aggregate of the following sums expressed in Indian Rupees on the date of termination of this Agreement in terms of Clauses 32, 45 and 46 (the "Termination Date"):

- (a) the principal amount of the debt provided by the Lenders under any financing document but excluding any part of the principal that had fallen due for repayment two years prior to the Termination Date;
- (b) all accrued interest, financing fees and charges payable under any financing documents on, or in respect of, the debt referred to in sub clause (a) above until the Termination Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Termination Date, (ii) any penal interest or charges payable under the financing documents to any Lender and (iii) any pre-payment charges in relation to accelerated repayment of debt.

"Fees" shall mean the tariff or charges levied on a vessel and/or cargo in accordance with applicable law.

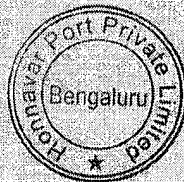
"Financial Closure" means the date on which the Lessee fulfils all conditions precedent to the initial availability of funds under the relevant financing document(s) entered into with Lenders.

"Force Majeure" or "Force Majeure Event": means the occurrence of any unforeseeable circumstances beyond the control of the Parties against which it would have been unreasonable for the affected Party to take precautions and which the affected Party cannot avoid even by using its best efforts, which in each case directly causes either Party to be unable to comply with all or a material part of its obligations under this Agreement.

"Insurance Cover" shall have the meaning ascribed to it in Clause 20 hereunder.

For HONNAVAR PORT PRIVATE LIMITED

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"Lenders" shall mean such banks and financial institutions from which the Lessee avails financing for the Project and shall also include working capital lenders.

"Lenders' Representative" means the person duly authorised by the Lenders to act for and on behalf of the Lenders with regard to matters arising out of or in relation to this Agreement, and includes its successors, assigns and substitutes.

"Port" means the demised premises (including right of way) comprising the water front, all structures/constructions/reclaimed land including but not limited to jetty, quay wall, wharf, foundations, embankments, pavements, road surface, bridges, drainage works, sign boards, electrical systems, communication systems, administrative offices, immovable fixtures, any subsequent construction, development and augmentation.

"Termination Notice" means the communication issued in accordance with this Agreement by one party to the other party terminating this Agreement.

#### TERMS AND CONDITIONS:

1. The Lessee shall pay in respect of the land leased, monthly land rent at Rs. 15 per 10 sq. mtrs or part thereof for the land used for industrial and commercial purposes and at Rs. 4/- per 10 sq. mtrs part thereof for the use of foreshore land other than that declared as public landing place as per the schedule - F of the Karnataka Ports (Landing and Shipping Fees) (Amendment) Rules, 2006 and 10 % increase annually and penalty for the belated payments as per the schedule of rates approved by the Government and as revised by the Government from time to time.
2. The Lessee shall pay all ground fees and other port related charges, such as berth hire, Port dues, Pilotage, Tug hire etc., as per the schedule of rates as fixed/revised by the Government Authorities from time to time, in the time during the lease period of the demised premises.
3. The license/lease granted under this agreement shall be for a period of 30 (thirty) years from the date of the revised Government Order.
4. The Lessee shall get plans designs and drawings and estimates prepared through qualified and reputed consultants and obtain prior approval of the designs, location plan, detailed drawings and specifications from the Port Authority prior to the commencement of the constructions/ reclamation. The Port Authority shall approve such designs, location plan, detailed drawings and specifications within 30 (thirty) days of submission by the Lessee. If within such 30 (thirty) day period, the Port Authority does not revert in writing with their disapproval with all reasons specified in that respect, the designs, location plan, detailed drawings and specifications as submitted shall be deemed to have been approved by the Authority. The Lessee shall commence construction of all structure and buildings according to the approved designs, drawings and specifications at the site indicated in the approved plans within 6 (six) normal months and complete the same in all respect within 12 normal months thereafter from the date of receipt of statutory clearance.
5. The Lessee shall pay the supervision charges to the Port Authority at 1% (one percent) of the estimated value of the construction prior to commencement of construction on the demised premises.

For HONNAVAR PORT PRIVATE LIMITED

Authorised Signatory

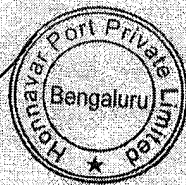


DIRECTOR OF PORTS & L.W.  
KARWAR

6. The Lessee shall not sublet the use of the demised premises or any buildings/Structures thereon to anybody.
7. The Port Authority may revoke the lease at any time, if the Lessee failed to deliver any wreck or cargo salvaged, to the Government, or participates either in smuggling or pilferage activities or found to possess or conceal such cargo.
8. The Lessee shall pay wharfage charges, Port dues, Berthing fees, Pilotage fees etc., to the Government from time to time as prescribed by the Government in Government Notification No. PWD 115 PSP 2001 dated May 25, 2006. The Lessee also hereby agrees that in the events of enhancement of the above rates by the State Government by notification in the Karnataka Gazette the enhanced rates shall become payable by the Lessee with effect from the date of enhancement of such rates, fees etc.
9. The Lessee shall obtain all the required permissions, no objection certificates, clearance certificates etc., from the concerned competent government authorities of the Department of Environment, Karnataka State Pollution Control Board and from any other Departments/Governmental Authorities prior to commencement of construction activities or carrying out any activities on the demised premises.
10. The Lessee shall make his own arrangements for water and electricity and other infrastructure including formation of approach road and levelling the land leased to the required level at its own cost.
11. If there are any rents, fees, taxes, royalty, cess and other charges etc., due to the State/Central Government and the Lessee fails to pay the same on demand, it shall be lawful for the Government/Port Authority to detain upon any goods or articles of the Lessee remaining in the said demised premises.
12. The Lessee shall carry out all survey and sub-soil investigations for the construction of all structures through well-qualified and reputed firms at its own cost at the demised premises and furnish the copies of such investigation and other results to the Port Authority.
13. Any relevant terms and conditions imposed on the Lessee by the Government or the Port Authority in future as and when circumstances arise shall be treated as part and parcel of this agreement and the lessee shall be bound to obey the same.
14. The Lessee shall not encroach upon any land, river or sea portion around the said demised premises or dump and refuse/hazardous articles into the sea/river.
15. The Lessee shall not assign, mortgage, sublet, transfer or part with possession of the said demised premises or any part thereof without the consent in writing of the Port Authority. *Provided however* that such consent of the Port Authority in writing shall not be required for:
  - a) mortgage of the leasehold rights over the demised premises specified in detail in Schedule A of this Agreement and all structures/improvements to be constructed/made thereon as well as hypothecation of all movable goods/assets, in favour of Lenders as security for the financing to be provided for the Project and any subsequent refinancing thereof; and/or
  - b) assignment of the Lessee's rights and interest to and under this Agreement and other project documents in favour of any representative of the Lenders, or any nominee of the Lenders appointed as substitute of the Lessee, on the occurrence of an event of default under the financing documents.

For HONNAVAR PORT PRIVATE LIMITED

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*[Signature]*  
DIRECTOR OF PORTS & L.W.T  
KARWAR

16. For any belated payments pertaining to Port charges the Lessee shall be liable to pay penalty at the rate specified in the approved schedule of rates and as revised by the Government from time to time.
17. The Lessee shall not keep or permit to be kept in the said demised premises or any part thereof any offensive, noisy or dangerous trade, business or occupation.
18. The Lessee shall not keep or permit to be kept in the said demised premises any materials of a dangerous nature, the keeping of which may contravene any law, Act, Rules or Regulations without the prior sanction of the competent authority.
19. The Lessee shall allow the Port Authority or the officers/officials deputed by the Port Authority at all reasonable times during the term of the lease to enter upon the demised premises/buildings, structures in the demised premises for the purpose of viewing and examining the state of condition thereof and for keeping watch for strict compliance of any of the terms and conditions of this Agreement.
20. The Lessee shall insure all movable/immovable properties, plants and machinery, goods, structures standing on the demised premises including third party risk insurance at its own cost with the approved insurance company (hereinafter referred to as the "Insurance Cover") and the Lessee shall arrange for timely renewal of the said insurance policy well in advance.
21. The Lessee shall keep the said demised premises in clean and sanitary condition, maintain all demarcation survey stones planted and raised the plantation as far as possible at its own cost.
22. The Lessee shall hold the Government free from all risk and responsibilities in respect of structures raised, machinery installed, goods stored etc, in the demised premises from damage or loss due to any cause.
23. The Lessee shall take all necessary precaution to ensure that environmental pollution does not take place and in case the environment Pollution takes place the Lessee shall be held responsible for the same and he has to bear all the consequential losses caused.
24. The Lessee shall comply with any rules or regulations which may be framed by the Government in connection with the checking of goods entering or leaving the said demised premises.
25. The Lessee shall agree to hand over the immovable property along with all the structures, building, pipelines etc., raised on the said demised premises to the Lessor in "as is where is condition" without claiming any compensation or concession after the expiry of the lease period of 30 (thirty) years or extended period thereof (After the expiry of the lease period the Lessee shall submit a proposal along with necessary information for the continuation of the lease. If the Government does not consider the proposal to extend the lease period the Lessee shall handover the port land and other movable and immovable property therein to the Government as is where is basis without claiming any compensation.)
26. The Lessee shall ensure that during construction and operation of other activities in the demised premises, it shall not cause any kind of hindrances or inconvenience to the Port Departmental works or to any other works.

For HONNAVAR PORT PRIVATE LIMITED

Authorised Signatory

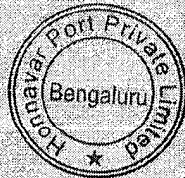


*[Signature]*  
DIRECTOR OF PORTS & L.W.T  
KARWAR

26. The Lessee shall ensure that during construction and operation of other activities in the demised premises, it shall not cause any kind of hindrances or inconvenience to the Port Departmental works or to any other works.
27. In lieu of the buildings/ structures standing on the demised premises, the Lessee shall construct similar buildings/ structures at its own cost in the area shown by the Port Authority and as per the directions and instructions issued by the Port Authority to the entire satisfaction of the Port Authority and hand over the said buildings/structures to the Port Authority free of cost.
28. The Lessee shall pay all the existing and future rates, taxes, fees, duties, cess and royalty etc., leviable by the Central/State Government or any local authority in respect of said demised premises or activities carried on such demised premises.
29. Any change in the constitution of the Lessee's firm or business shall in no way affect the terms and conditions of this Agreement.
30. All amount due under this agreement shall be recovered by Government without prejudice of other remedies as arrears of land revenue.
31. The Lessee shall also abide by the special conditions stipulated by the Government of Karnataka and the Port Authority as and when circumstance arises.
32. If necessity arises for expropriation of the demised premises or any part thereof in interest of public services before completion of the lease period, the Lessor shall be entitled to cancel/terminate the lease over the demised premises or in respect of any part thereof including over any part or whole of any structure/construction/development built/carried out by the Lessee of the demised premises, by issuing a Termination Notice, 60 (sixty) days prior to such cancellation/termination and on payment of compensation calculated on the basis as detailed in Part A of Schedule B hereunder.
33. The lessee shall comply with all the terms and conditions issued in Government Order No 119 PSP 2010 dated September 22, 2010.
34. The Lessee shall comply with all the provisions of the Karnataka Landing & Shipping Fees Act 1961 and the rules framed there under.
35. The Lessee shall obtain prior permission of the Coastal Regulation Zone Authorities for the construction of any infrastructure on the said demised premises.
36. During the subsistence of this Agreement, the Lessee shall have the sole and exclusive right to operate the Port and the facilities thereat and collect Fees from any user including any vessel or vehicle using the Port and or any facility thereat.
37. If the Lessee makes delay for the payment of ground fees for more than fifteen (15) days, fine will be levied on the outstanding amount @10% (Ten per cent) per month.
38. Neither Party shall be in breach of its obligations under this Agreement or incur any liability to the other Party for any losses or damages of any nature whatsoever incurred or suffered by that other if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure Event except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure Event had not occurred (in which case this Clause 38 shall not apply to that extent).

For HONNAVAR PORT PRIVATE LIMITED

Authorised Signatory



Director of Ports & LWT  
KARWAR

As soon as reasonably practicable following the date of commencement of a Force Majeure Event, and within a reasonable time following the date of termination of a Force Majeure Event, any Party invoking it shall submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement.

The Parties shall, and shall procure that its subcontractors (if any) shall, at all times take all reasonable steps within their respective powers and consistent with good operating practices (but without incurring unreasonable additional costs) to:

- (a) prevent Force Majeure Events affecting the performance of the either Party's obligations under this Agreement;
- (b) mitigate the effect of any Force Majeure Event; and
- (c) comply with its obligations under this Agreement.

The Parties shall consult together in relation to the above matters following the occurrence of a Force Majeure Event.

Should a single Force Majeure Event persist for a continuous period of more than 180 (one hundred and eighty) days then the parties shall endeavour to agree to any modifications to this Agreement (including without limitation, determination of new charges, fees et., (if appropriate) which may be equitable having regard to the nature of the Force Majeure Event and which is consistent with applicable law or in the alternative the Lessee may terminate this Agreement, in which case the consequential provisions upon termination as stated in Clause 45 shall take effect.

39. The Lessee is responsible for development of additional land/acquisition of the private land at his own cost according to the prevailing rules, required for anchorage operations. The Lessee is liable to pay the ground fees to the Port Authority for the said development land as per the rules.
40. The Lessee shall obtain license /permission from the Forest Department, Mines & Geology and other concerned Department to store /export /import Iron Ore, Granite, Coal and Wood etc.
41. The Lessee shall ensure that during construction and operation of any activities in the demised premises, it shall not cause any hindrances or inconveniences or nuisance to the public.
42. If there is any alteration in the original approved layout plan and design, submitted by the company, the Lessee shall take prior approval of the Port Authority prior to commencement of any construction/reclamation activities.
43. The Lessee shall use the road available in Kasarkod side as shown in Map "C".
44. For violation of any of the above terms and conditions by the Lessee, the Port Authority is at liberty to cancel/terminate this Agreement by issuing a Termination Notice and cause the Lessee to forfeit the demised premises along with all the structures/building/other property standing thereon.  
*Provided however* that on such cancellation/termination by the Lessor, the Lessor/Port Authority shall pay compensation calculated on the basis as detailed in Part B of **Schedule B** hereunder for such cancellation/termination to take effect.

FOR HONNAVAR PORT PRIVATE LIMITED

Authorised Signatory



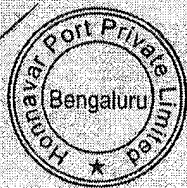
DIRECTOR OF PORTS & I.W.T  
KARWAR

Provided further that the Lessor shall, prior to issuing the Termination Notice, give adequate notice of its intention to issue Termination Notice to the Lenders' Representative, for enabling the Lenders' Representative to exercise the Lenders' right of substitution within a period of 180 (one hundred and eighty) days from the receipt of the Termination Notice by the Lenders' Representative. In this respect the Lessor shall confirm such right of substitution of the Lenders in writing addressed to the Lenders' Representative directly with a copy to the Lessee. If such right is exercised by the Lenders' Representative, the Lessee shall stand substituted under this Agreement with the nominee of the Lenders or a fresh lease agreement with such nominee shall be entered into on the same terms and conditions stated herein.

45. In the event the Lessor fails to fulfil any of its obligations under this Agreement, including but not limited to i) non-payment of any amounts due to the Lessee or ii) repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement, the Lessee may terminate this Agreement.
- Upon such cancellation/termination by the Lessee, the Lessor/Port Authority shall pay compensation calculated on the basis as detailed in Part A of Schedule B hereunder. Upon and against such payment, the Lessee shall handover the demised premises along with all the structures, building, pipelines etc., raised on the said demised premises to the Lessor in "as is where is condition".
46. The Lessee agrees that any compensation payable on termination of this Agreement shall be paid by the Lessor to the Lenders towards outstanding dues of such Lenders, during the currency of any loan facility availed for the construction and development of the Project, at their instruction to any designated bank account in India and the Lessor shall stand duly discharged of its obligation regarding payment of compensation to the Lessee.
47. Any dispute, difference or claim arising out of, or in connection with, or relating to the present contract or the breach, termination or invalidity thereof, shall be referred and settled under the Arbitration Centre, Karnataka (Domestic & International) Rules 2012, by one or more arbitrators appointed in accordance with its rules.

For HONNAVAR PORT PRIVATE LIMITED

Authorised Signatory



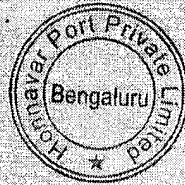
DIRECTOR OF PORTS & L.W.T  
KARWAR

**SCHEDULE - A**

Sl No.	Taluk or Village	Area	Boundaries
a)	Honnavar, Honnavar Taluk, Uttar Kannada District	40,000 sq.mtrs [Proposed reclamation of land in 1 <sup>st</sup> phase in the back up area of the proposed Jetty measuring 200-220 mt length and 5-6 mtrs. Depth in Honnavar Port as per map "A1"]	North: Port land South: Sharavathi River East: Sharavathi River West: Sharavathi River
b)	Honnavar, Honnavar Taluk, Uttar Kannada District	36,000 sq.mtrs [Proposed reclamation below the Honnavar Bridge in Honnavar Port for vechile terminal as shown in map "A2"]	North: Port land South: Sharavathi River East: Private/Port land West: Sharavathi River
c)	Honnavar, Honnavar Taluk, Uttar Kannada District	1560 sq.mtrs [Filling up of the low lying area in the corner of Sharavathi bridge and also to construct road measuring 130 X 12 mtrs (total 1,560 Sq. Mtrs) to give entry to Honnavar Port from National Highway-17 as shown in map "A3"]	North: Port land South: N.H. - 17 East: Sharavathi River West: Sharavathi River
d)	Honnavar, Honnavar Taluk, Uttar Kannada District	40,000 sq.mtrs [Back up area of the Kasarkod Jetty i.e. in the south side where Sharavathi river and Arabian sea joins at the spit which is naturally filled up space for anchorage operations in first phase as shown in map "B1"]	North: Sharavathi River South: Port land, East: Sharavathi River West: Reclaimed land

For HONNAVAR PORT PRIVATE LIMITED

Authorised Signatory



*[Signature]*  
DIRECTOR OF PORTS & L.W.T  
KARWAR

## SCHEDULE B

## PART A

Termination payment payable in terms of Clause 32 and Clause 45 shall mean the aggregate of the following sums,

- a) Debt Due less Insurance Cover. Provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty percent) of such unpaid claims shall be included in the computation of Debt Due; and
- b) 90% (ninety percent) of the equity funded in Indian Rupees by the Lessee and adjusted on the first day of the current month (the "Reference Date"), to reflect the change in its value on account of depreciation and variations in WPI.

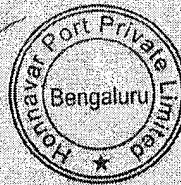
*"WPI" means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the latest monthly WPI published no later than 30 (thirty) days prior to the date of consideration.*

## PART B

Termination payment payable in terms of Clause 44 shall mean an amount equal to 90% (ninety percent) of the Debt Due less Insurance Cover. Provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty percent) of such unpaid claims shall be included in the computation of Debt Due.

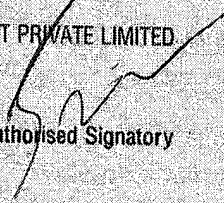
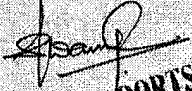
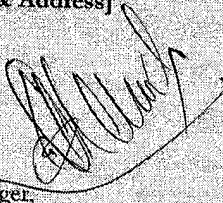

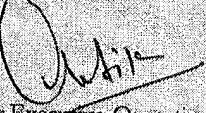
For HONNAVAR PORT PRIVATE LIMITED

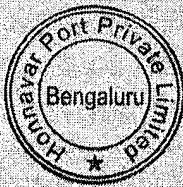
Authorised Signatory



*[Signature]*  
DIRECTOR OF PORTS & I.W.T  
KARWAR

In witness thereof the Director of Ports and Inland Water Transport Department, Karwar, Karnataka, on behalf of the Governor of Karnataka and Mr. Shiva Shankar Reddy, S/o Mr.G.S.P Veera Reddy, #103, Lalchzar Apartments, 45/1-2, Palace Road, Bangalore-560001, Karnataka on behalf of M/s Honnavar Port (P) Ltd. have hereunto set their hands and seals the day and the year first above written in presence of the witnesses.

<p>Signed on behalf of Honnavar Port Private Limited. [HPPL]</p> <p>For HONNAVAR PORT PRIVATE LIMITED.</p> <p> Authorised Signatory</p>	<p>Signed on behalf of Governor of Karnataka</p> <p> <b>DIRECTOR OF PORTS &amp; I.W.T KARWAR</b></p>
<p>(Authorised Signatory) Name: Mr. Shiva Shankar Reddy Designation: Director. [LESSEE]</p>	<p>Director of Ports and Inland Water Transport Department, Karwar, Karnataka. [LESSOR]</p>
<p>In the presence of witness: [Signature, Name &amp; Address]</p> <p>(i) H. D Naik,</p> <p></p> <p>Administrative Manager, Honnavar Port (P) Ltd, Honnavar.</p>	<p></p> <p>Administrative Assistant Directorate of Ports and Inland Water Transport Department, Karwar, Karnataka.</p>
<p>(ii) Roshan H. Naik,</p> <p></p> <p>Sr. Executive Operations, Honnavar Port (P) Ltd, Honnavar.</p>	



# HONAVAR ANCHORAGE

MAP A

SCALE 1:25 000

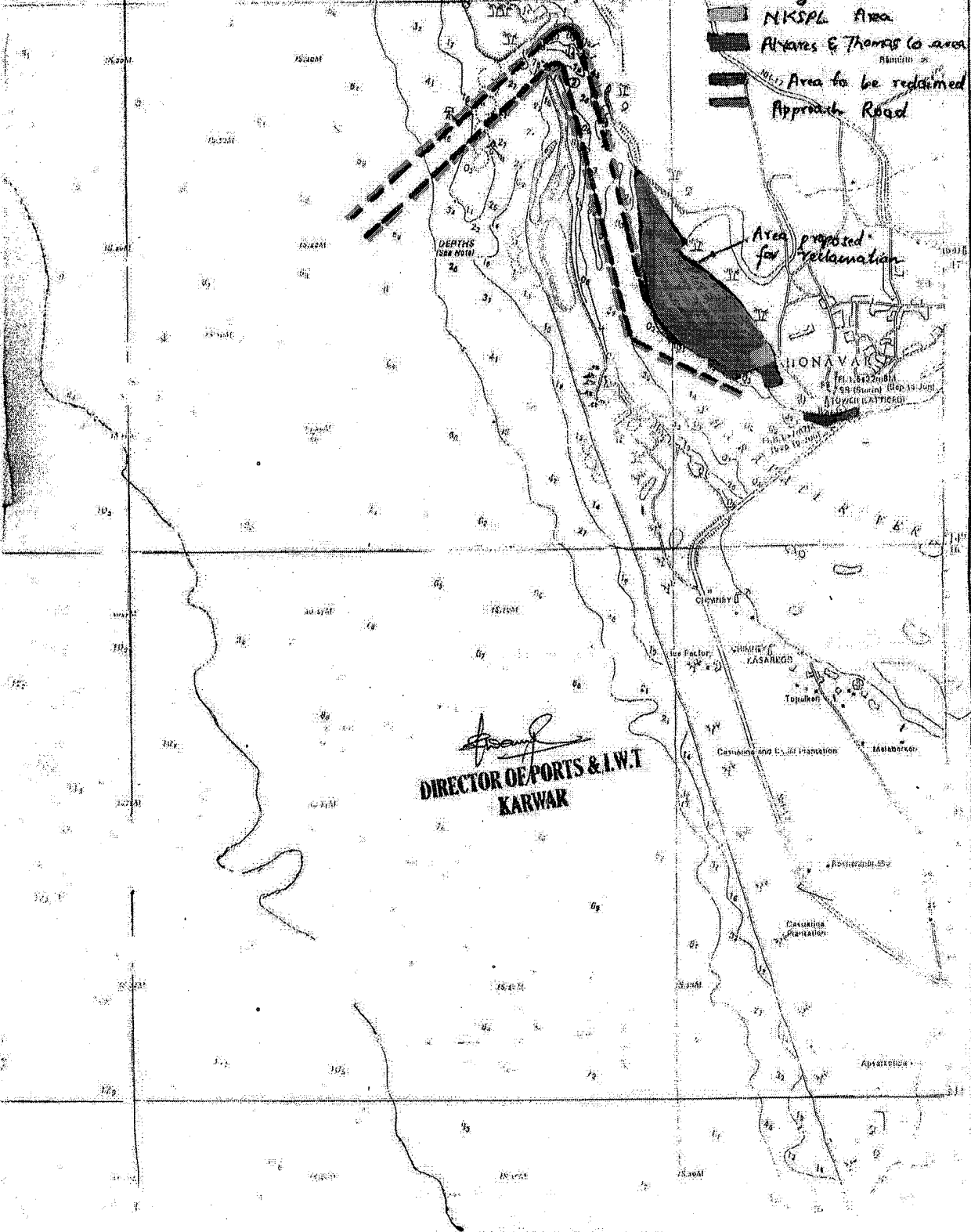
DEPTHS  
By order liable to change by frequent changes in the river mouth.



PROPOSED ANCHORAGE  
OPERATIONS AT HONAVAR  
PORT

### INDEX

- Area to be reclaimed
- Channel
- Jetty/Barge Berth
- NKSPL Area
- Alvaras & Thomas Co area
- Area to be reclaimed
- Approach Road



*[Signature]*  
**DIRECTOR OF PORTS & I.W.T**  
**KARWAR**

# HONAVAR ANCHORAGE

SCALE 1:25,000

DEPTHS




Depths are liable to change due to frequent changes in the level of tides

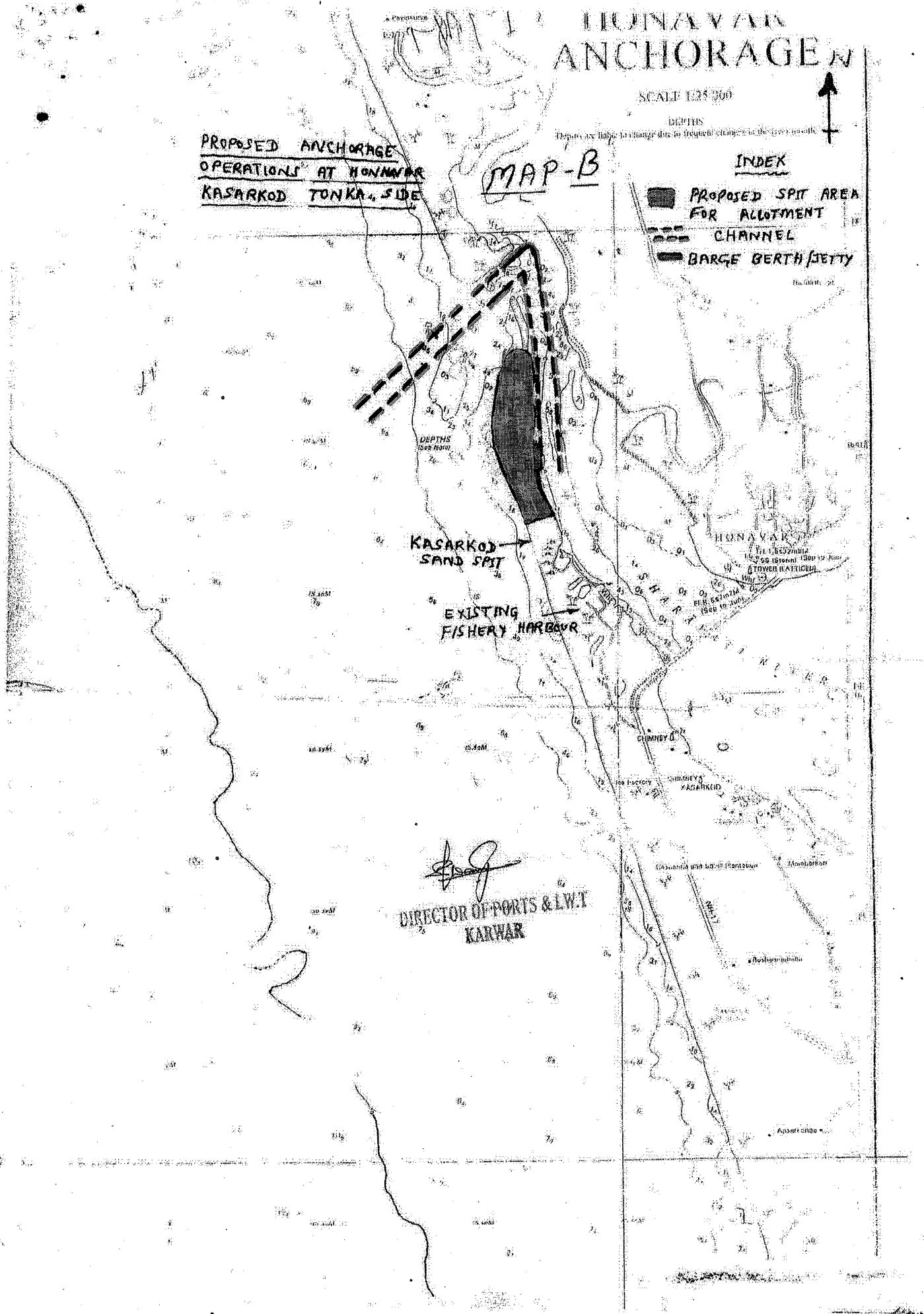


**PROPOSED ANCHORAGE  
OPERATIONS AT HONAVAR  
KASARKOD TONKA, SIDE**

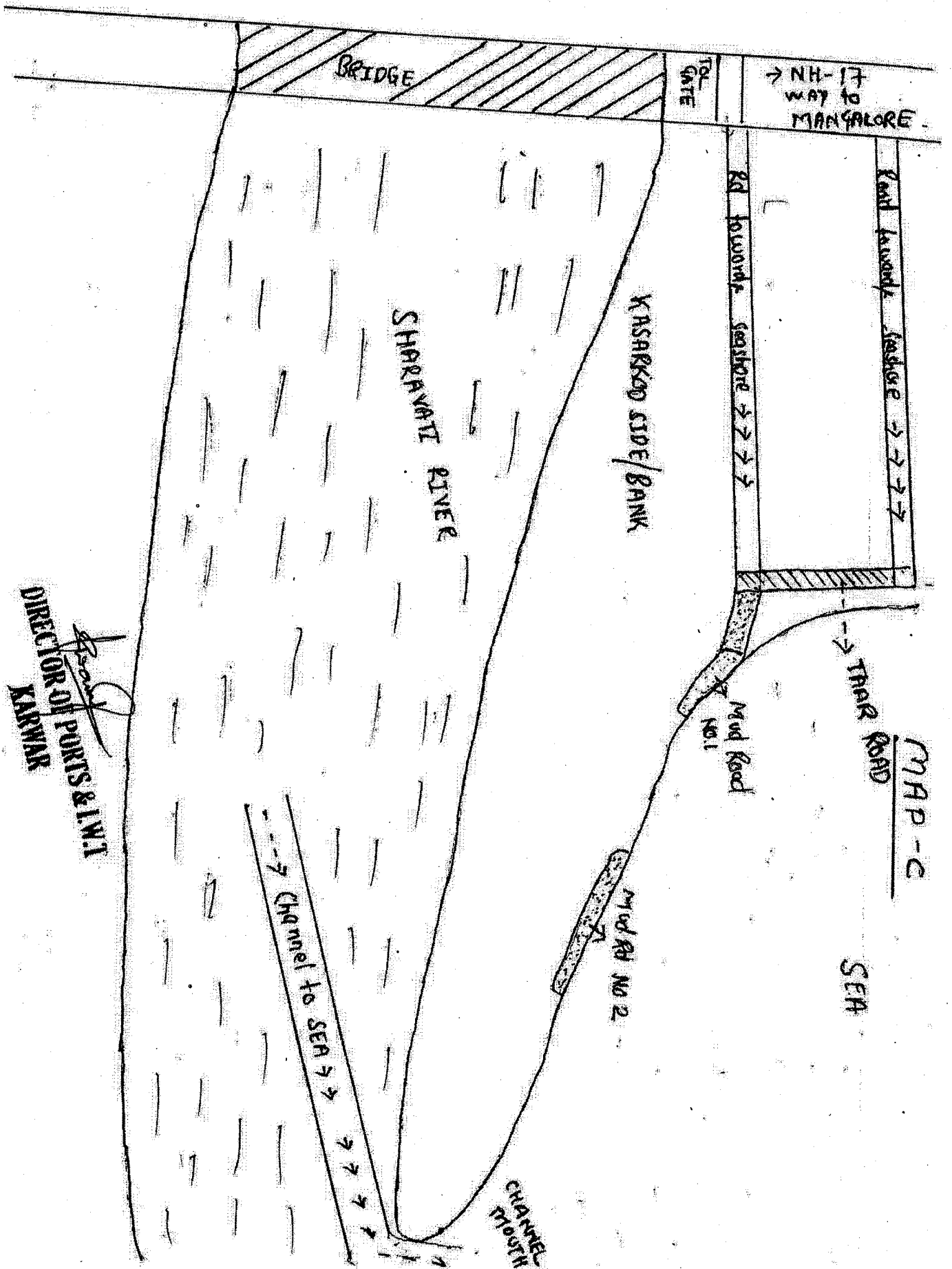
**MAP-B**

**INDEX**

-  PROPOSED SPIT AREA FOR ALLOTMENT
-  CHANNEL
-  BARGE BERTH / JETTY



*[Signature]*  
 DIRECTOR OF PORTS & L.W.T.  
 KARWAR



MAPP-C

SEA

  
 DIRECTOR OF PORTS & I.N.T.  
 KARWAR







MAP-A-I

# HONĀVAR ANCHORAGE

SCALE 1:25 000

Depths are subject to change due to frequent changes in the river silt.

### INDEX

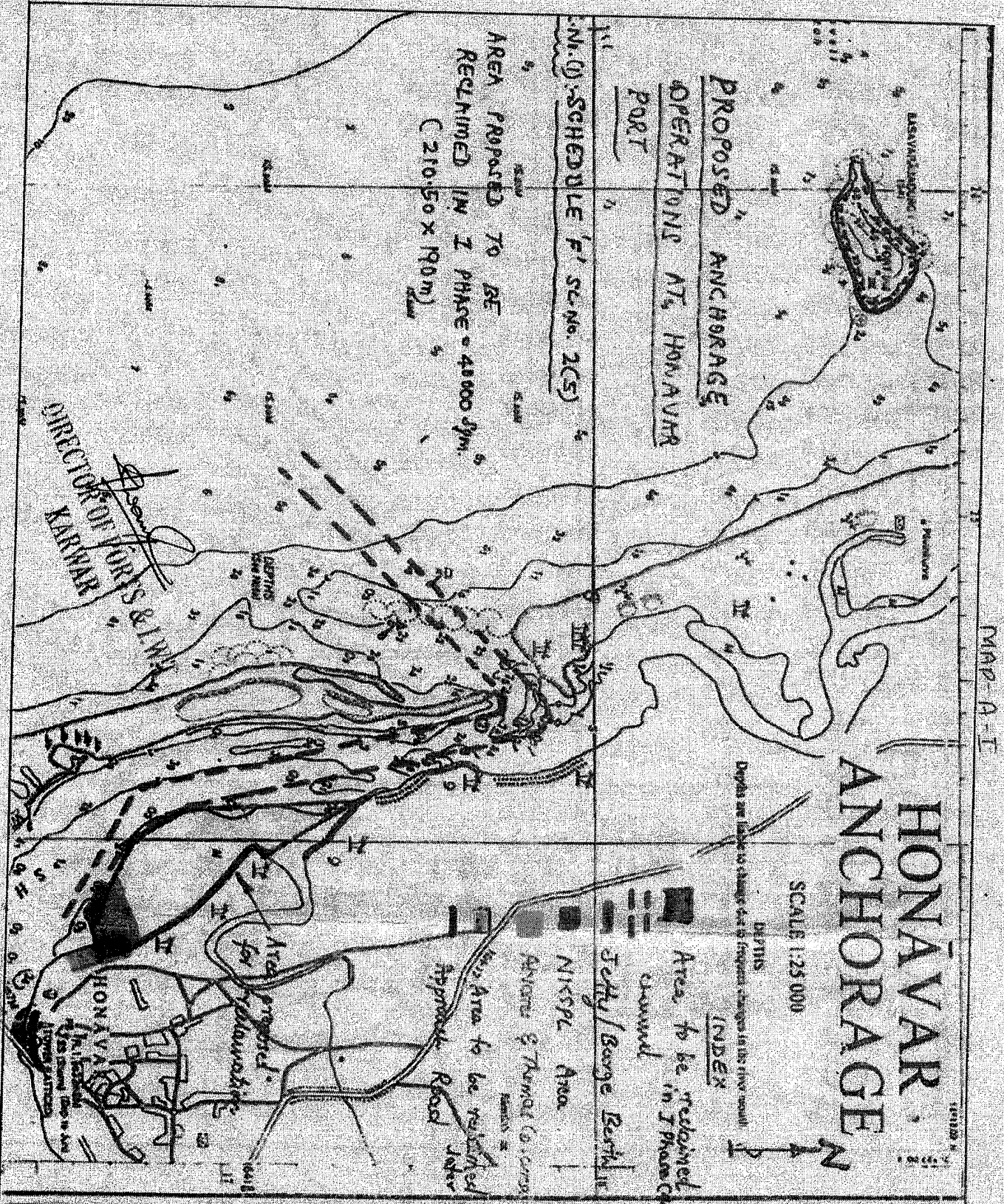
-  Area to be reclaimed around
-  Jetty / Barge Berth
-  NISPL Area
-  ANSPL & Terminal Co. area
-  Area to be reclaimed
-  Approach Road

PROPOSED ANCHORAGE OPERATIONS AT HONĀVAR PORT

N. (D) SCHEDULE 'F' (S.No. 2(5))

AREA PROPOSED TO BE RECLAIMED IN 1<sup>st</sup> PHASE = 40000 sqm. (210.50 x 190 m)

~~DIRECTOR OF PORTS & I.W.~~  
KARWAR



A.I.

MPP-A-II








# HONAVAR ANCHORAGE

SCALE 1:25 000

DERTHS

Depths are liable to change due to frequent changes in the river channel

## INDEX

-  Area to be reclaimed
-  Area covered
-  Jetty / Barge Berth
-  Nil Spect Area
-  Avenue & Terminal Complex
-  Area to be reclaimed for truck
-  Approach Road Terminal (36000 sqm)

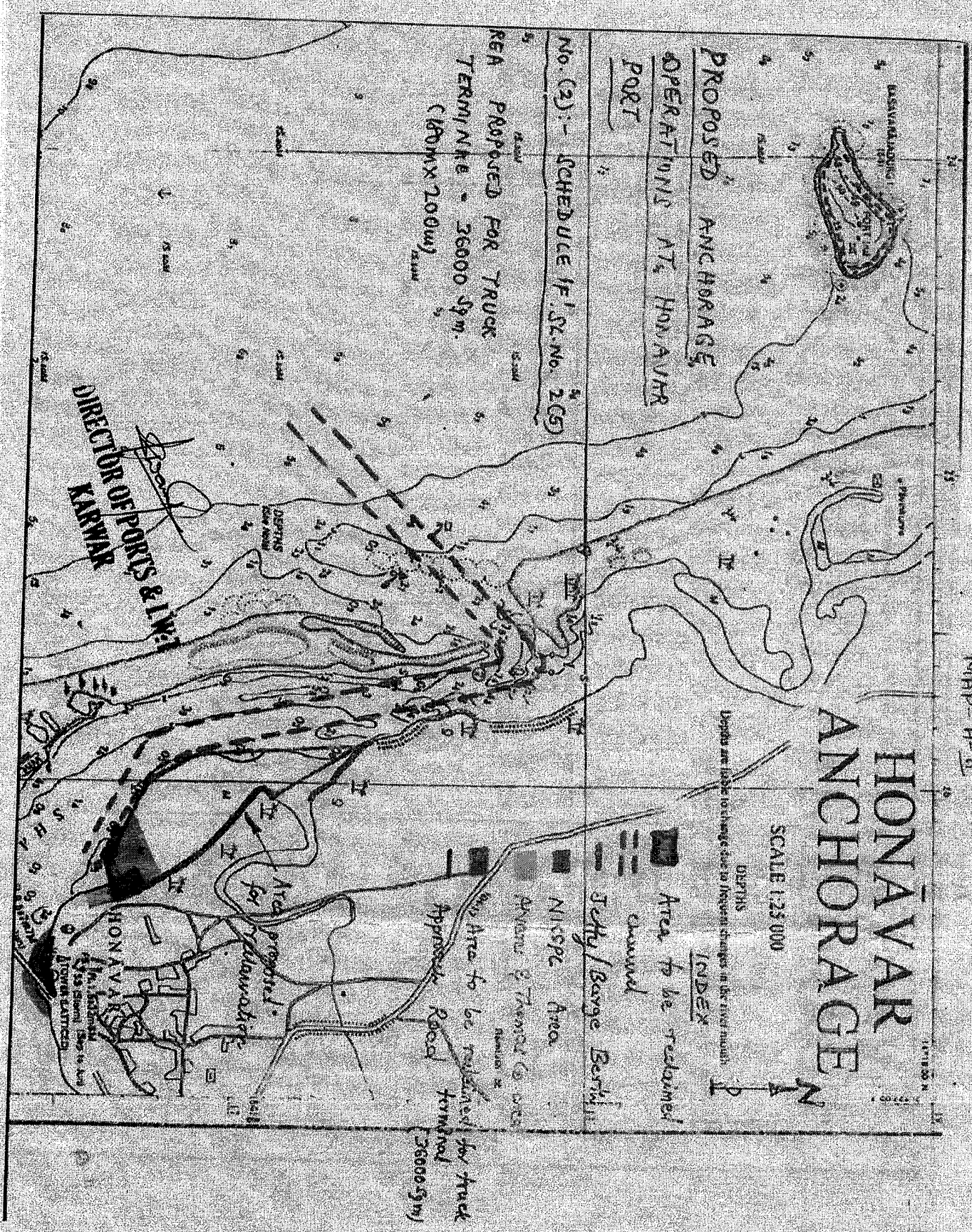
**PROPOSED ANCHORAGE OPERATIONS AT HONAVAR PORT**

No. (2) - SCHEDULE 'F', S. No. 2(G)

REA PROPOSED FOR TRUCK TERMINAL - 36000 sqm. (180m x 200m)

DIRECTOR OF PORTS & SHIPS KARWAR

HONAVAR  
Incorporated  
as a Public Limited  
Company under  
the Companies Act, 1956  
(GOVERN ENTITLED)



# HONĀVVAR ANCHORAGE

SCALE 1:25 000

DEPTHS

Depths are liable to change due to frequent changes in the river mouth

### INDEX

□ Area to be reclaimed

▨ Area reserved

▧ Jetty/Barge Berth

■ MISPL Area

▩ Area reserved to Govt

▧ Area to be reclaimed

▧ Area reserved

▧ Area reserved

Approx. Road 12m wide  
130m long off NH 17

Area proposed for  
reclamation

HONĀVVAR  
The location of the  
proposed area is  
shown in the  
enclosed sketch

DIRECTOR OF PORTS & SHIPING  
KARNATAKA

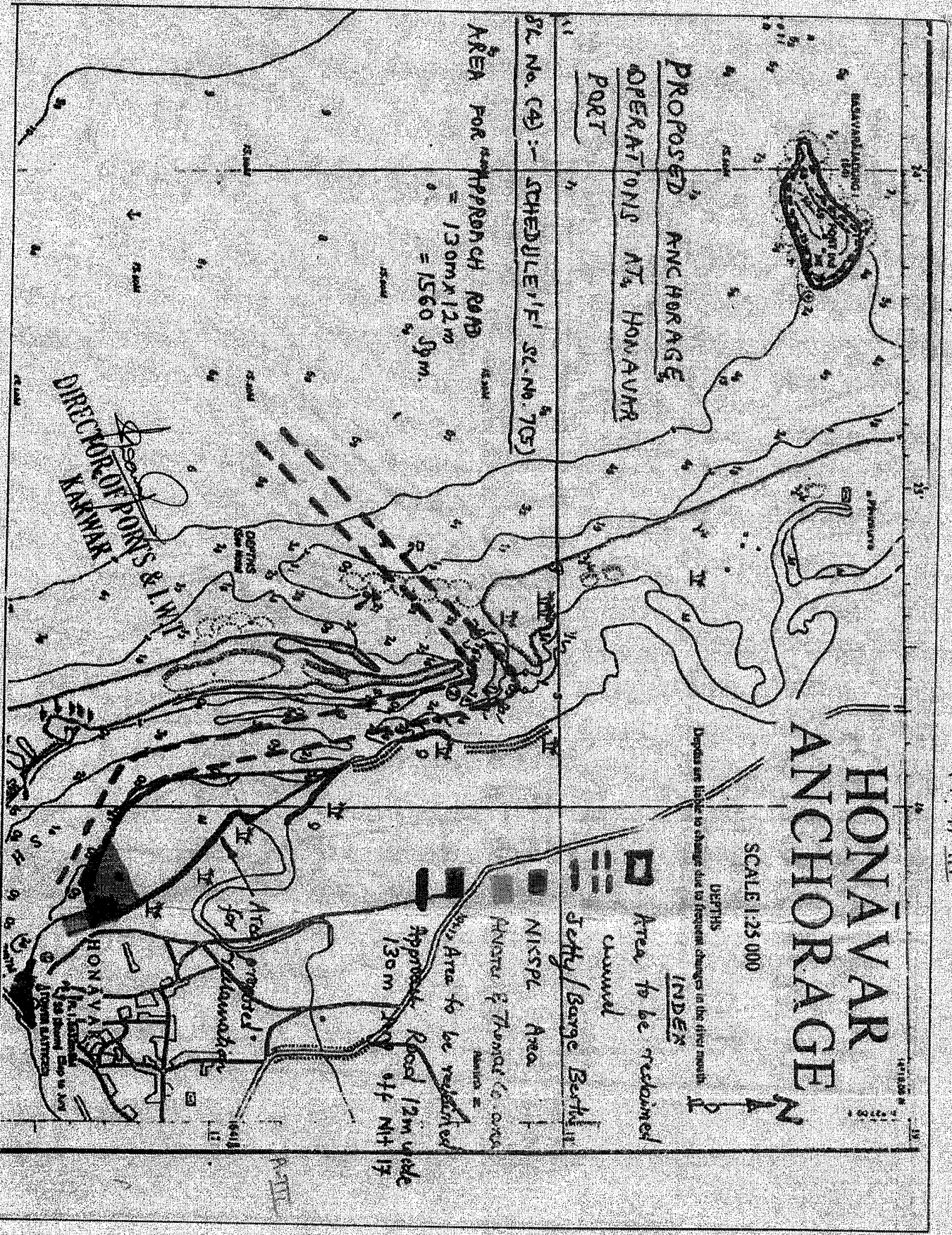
PROPOSED ANCHORAGE  
OPERATIONS AT  
HONĀVVAR  
PORT

Sl. No. (A) :- SCHEDULE 'I' (Sl. No. 705)

AREA FOR APPROX. ROAD

= 130m x 12m

= 1560 sqm.



MAP 8-I

# HONĀVĀR ANCHORAGE

SCALE 1:25 000

Depths are liable to change due to frequent changes in the river mouth



INDEX

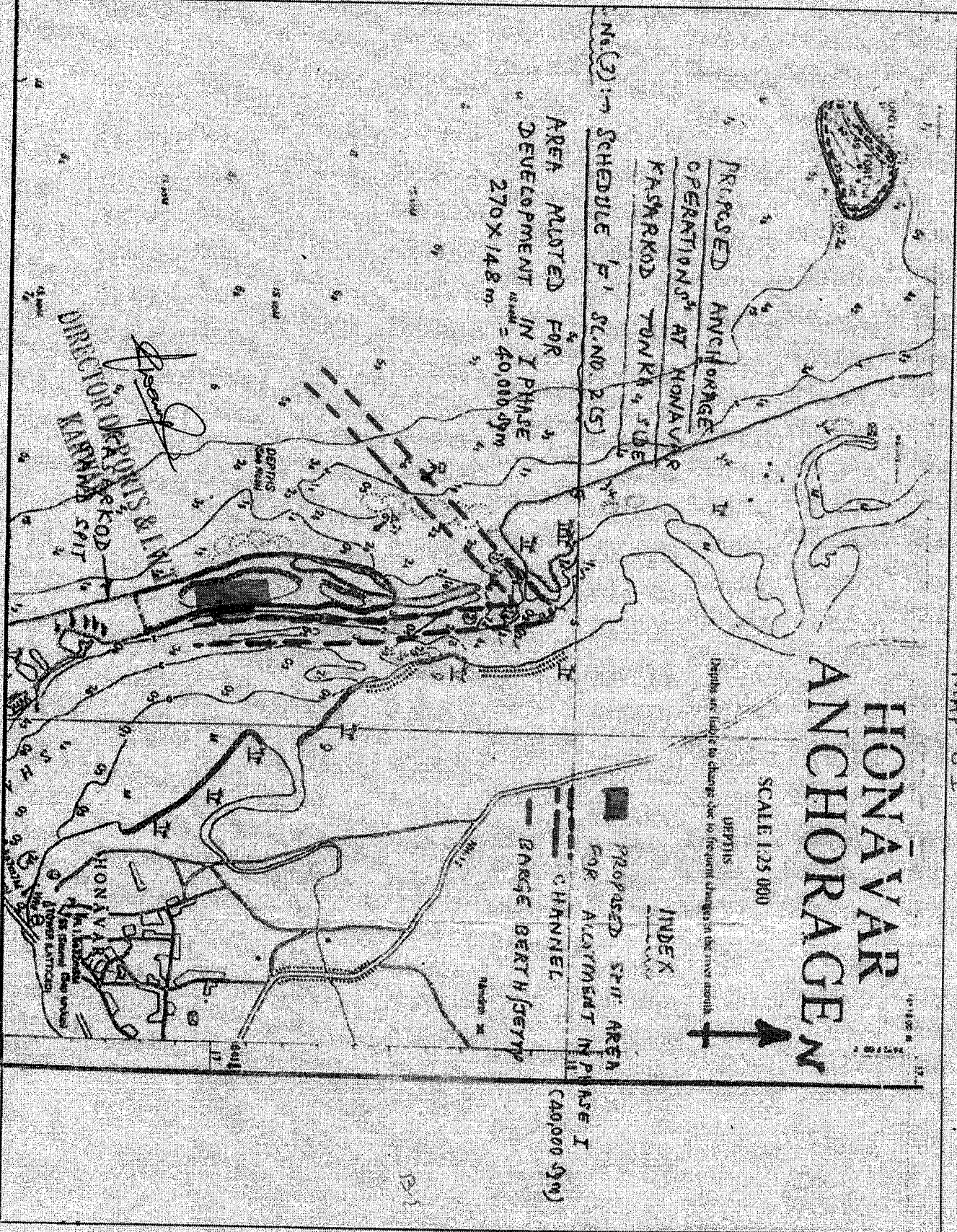
- PROPOSED SPILL AREA FOR ALTIMENT IN PHASE I (CA. 000 QM)
- CHANNEL
- BARGE BERTH JETTY

NO. 21 - SCHEDULE 'A' (CL. NO. 215)

AREA ALLOTTED FOR DEVELOPMENT IN I PHASE 270 X 148 M. = 40,010 QM

PROPOSED ANCHORAGE OPERATION AT HONĀVĀR KASHMIRKOD TOWN ON S. SIDE

DIRECTOR OPERATIONS BIRMINGHAM KASHMIRKOD SPIT



**IN THE COURT OF THE PRL. DISTRICT & SESSIONS JUDGE,  
UTTARA KANNADA, KARWAR.**

**DATED THIS THE 7<sup>th</sup> DAY OF JANUARY 2019**

**MISC. APPEAL NO: 01/2016 to 27/2016**

**PRESENT: SRI. T. G. SHIVASHANKARE GOWDA, M.Sc., L.L.B.,**  
Principal District & Sessions Judge,  
Uttara Kannada, Karwar.

**APPELLANT**

**IN Misc. App. No. 1/2016: czxs**

Sri. Ilyas Abdul Gafoor Kewka,  
Age: 31 years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal. Honnavar, Uttar Kannada District.

**IN Misc. App. No. 2/2016:**

Sri. Pandurang Ganpati Tandel,  
Age: 40 years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal. Honnavar, Uttar Kannada District.

**IN Misc. App. No. 3/2016:**

Sri. Sanjay Pedru Fernandes,  
Age: 37 years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal. Honnavar, Uttar Kannada District.

**IN Misc. App. No. 4/2016:**

Sri. Mohammed Rafique Ismail Sab,  
Age: 37 years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal. Honnavar, Uttar Kannada District.

**IN Misc. App. No. 5/2016:**

Sri. Sandeep Sheshageri  
Venkappa Tandel,  
Age: 24 years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal. Honnavar, Uttar Kannada District.

  
2/1

**IN Misc.App. No.6/2016:**

Sri.Sheshageri Venkappa Tandel,  
Age: 51years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.7/2016:**

Sri.Natedar Saver Fernandes,  
Age: 49years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.8/2016:**

Sri.Shridhar Jagannath Tandel,  
Age: 29years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.9/2016:**

Sri.Mohammed Khadar Ahmed  
Baba, Age: 52years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.10/2016:**

Sri.Hassan Sab Abubakar Sab,  
Age: 46years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.11/2016:**

Sri.AbdulAmeer Moh am med  
Ullai, Age: 31years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kan nada District.

**IN Misc.App. No.12/2016:**

Sri.HamjaHasan Sab,  
Age: 52years, Fisherman,



R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.13/2016:**

Sri.Abdul Sattar Abbaa Chaugule,  
Age: 68years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.14/2016:**

Sri.Ismail Abdul Sattar Chaugule,  
Age: 39years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.15/2016:**

Sri.Narayan Rama Tandel,  
Age: 47years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.16/2016:**

Sri.Prakash Gopal Tandel,  
Age: 45years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.17/2016:**

Sri.Stanlos Albert Marsdhal  
Fernandes,  
Age: 45years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.18/2016:**

Sri.John Albert Marsdhal  
Fernandes, Age: 52years,  
Fisherman, R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.



**IN Misc.App. No.19/2016:**

Sri.Jaleel Mohammed Sab,  
Age: 29years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.20/2016:**

Sri.Kaseem Abdul Sab,  
Age: 29years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.21/2016:**

Sri.Roshan Felison Marsdhal  
Fernandes,  
Age: 38years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.22/2016:**

Sri.Felison Marsdhal Fernandes,  
Age: 69years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.23/2016:**

Sri.Danish Santan Fernandes,  
Age: 64years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.24/2016:**

Sri.Suresh Rukmayya Gun Mesta,  
Age: 52years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.25/2016:**

Sri.Victor Marshall Fernandes,  
Age: 65years, Fisherman,



R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.26/2016:**

Sri.Vijay Victor Marshall Fernandes,  
Age: 35years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.

**IN Misc.App. No.27/2016:**

Sri.Pandurang Sheshageri  
Cholayya Tandel,  
Age: 41years, Fisherman,  
R/o: Tonka, Kasarkod,  
Tal.Honnavar, Uttar Kannada District.  
(Sri.R.S.Hegde Gali, Advoate in all the cases)

**Vs.**

**RESPONDENTS:**

1. The State of Karnataka,  
R/by Deputy Commissioner,  
Uttar Kannada, Karwar.
2. The Director of Ports and Inland Water  
Transport, Department of Karwar,  
Uttar Kannada, Karwar.
3. The Self Claimed Authorised Officer/  
Competent Officer and the Port Officer,  
Honnavar Port, Tal. Honnavar,  
Uttar Kannada.  
(By learned D.G.P.)

**COMMON JUDGMENT**

These are the appeals filed U/Sn.10 of the Karantaka  
Public Premises (Eviction of Unauthorised Occupants) Act, 1974  
by the appellants challenging the order passed by the  
respondent No.3 in BHUM/CR-22/2015-16 dated 30.12.2015.

2. The identical question arises in all the appeals and  
hence they are taken up together for common disposal.

3. The appellants are the resident of Tonka, Kasarkod village of Honnavara Taluka. They have been directed for eviction from the land in Sy.No.305 of Kasarkod village. The appellants are said to have constructed their houses cum-fishing equipment storage and fish storing sheds by the side of Sharavati-Arebean sea which is alluvial land and it is formed part of Sy.No.305 of Kasarkod village. The respondents No.2 and 3 misguiding the Government machineries and obtained the sanction to hand over the premises in occupation of the appellants to private company for establishment of Barje and Export business and between 19.10.2015 and 24.11.2015 the respondent No.3 has served the notice on the appellants and asked them to vacate their sheds and huts and for this reason they made the representation to the 1<sup>st</sup> respondent. The 3<sup>rd</sup> respondent without hearing the appellants has passed the Order on 30.12.2015 directing the appellants to vacate their houses, sheds within 15 days from the date of order and they have received the Order on 2.1.2016. Aggrieved by the said Order, the appellants have come before this Court for and amongst the grounds below:

**Common grounds of appeal:**

- i. There is no order appointing the 3<sup>rd</sup> respondent as competent officer or the authorised officer under the Karnataka Public Premises Act, 1974.



ii. The respondent No.2 and 3 will not get any right to pass the order of eviction against the appellants.

iii. The land in question is a revenue land, the authority for the said land is the revenue department who are required to pass the order of eviction and not the 2<sup>nd</sup> and 3<sup>rd</sup> respondent. Hence, the order is illegal and against the facts of the case.

iv. The 3<sup>rd</sup> respondent has not conducted any enquiry before passing the order, he has not recorded the evidence, no evidence is led on behalf of 2<sup>nd</sup> respondent nor were the appellants allowed to lead the evidence. Hence, the assumption of 3<sup>rd</sup> respondent that the land belonging to the 2<sup>nd</sup> respondent is illegal.

v. The earlier land revenue records show the names of the appellants and they are entitled to seek under K.L.R Act and therefore, the order passed by the 3<sup>rd</sup> respondent is illegal.

vi. The appellants are the fisherman by profession, they are involved in fishing and storage of fish and connected activities in the premises and if they are evicted their family will come to the road.

vii. The appellants have jointly challenged the order sanctioning the land occupied by them to the third party before the Hon'ble High Court of Karnataka in W.P.No.100908 to 100934 of 2016 and the matter is pending, hence, the Order passed by the 3<sup>rd</sup> respondent is to be set aside and sought for allowing all the appeals.

4. The appellants are duly represented by their counsel.

The respondents are duly represented by the learned DGP who has filed the objections that the appeals are not maintainable, the appellants were already approached the Hon'ble High Court of Karnataka in W.P.No. 100908-934/2016(GM-R.ES) and the Writ Petitions have been dismissed by speaking order and therefore, all the appeals are become premature, deserves to be dismissed.



The appellants have filed the certified copy of the Order and therefore, there is no need for calling of the L.C.R.

5. Heard the arguments of both sides and have submitted their notes of arguments.

6. Now the points that arise for consideration are:

1. Whether the impugned Order is perverse, illegal and not in accordance with law?

2. What is the effect of the Order passed by the Hon'ble High Court of Karnataka in W.P.No.100908-934/2016?

3. What order?

7. My answers to the above said points are:

Point No.1: In the negative.

Point No.2: Appeals become infructuous.

Point No.3: As per final order, for the following:

### REASONS

#### Points No.1 and 2:

8. Both the points are interconnected, hence taken up together in common.

9. It has been argued by the learned counsel for the appellants that, the contention of the appellants that there was no proper enquiry conducted by the 3<sup>rd</sup> respondent before passing the Order of eviction. The appellants were not given opportunity to produce the documents, adduce oral evidence,

the 2<sup>nd</sup> respondent has not led any evidence and the appellants were not given any opportunity to examine the witness, the nature of the land is revenue land it vests with the Government and in case of eviction of agricultural land in the light of the Judgment of the Hon'ble High Court of Karnataka in **2009(2)KCCR 1220** it is the revenue department who has to pass the Order and not the 3<sup>rd</sup> respondent. The Order passed by the Hon'ble High Court of Karnataka in W.P.No.100908-934/2016 is nothing to do with the decision of these appeals on merits and the appellants have challenged the action of the 3<sup>rd</sup> respondent for which they are required to answer by proper finding by this Court and on the basis of the Order of the 1<sup>st</sup> respondent taking possession of the property from the appellants is nothing to do with the finding required to be recorded for these appeals. On contrary, the learned DGP has contended that, the representation of the appellants filed to the 1<sup>st</sup> respondent since not considered they have challenged the same before the Hon'ble High Court of Karnataka in W.P.No.100908-934/2016 wherein the Hon'ble High Court of Karnataka dismissed the Writ Petitions giving directions to the respondents to pass Orders on the petitions filed by the appellants in accordance with law. Till such order, the appellants shall not be dispossessed from the land in question. The representation of the appellants were decided by the 1<sup>st</sup> respondent and the Order passed by the 1<sup>st</sup>



respondent was not challenged by the appellants and for this reason, all the appellants who are in unauthorized occupants of the premises have been evicted, possession of the property was taken and the very purpose of the Order passed by the 3<sup>rd</sup> respondent was fulfilled and therefore, even if the findings of the 3<sup>rd</sup> respondent if held negative by this Court they cannot seek possession from this Court. Hence, the appeals stand infructuous and remedy open to the appellants to question the Order of the 1<sup>st</sup> respondent, their representation and they have to question their eviction and taking possession in a separate proceeding and the appellants cannot waste the time before this Court.

10. Having heard the arguments of both sides, I have carefully perused the judgment of the Hon'ble High Court of Karnataka passed in **2009(2) KCCR 1220** in "**Smt.Asha Chakko and Ors Vs. The State of Karnataka and Anr.**" wherein the Hon'ble High Court laid down referring to Sn.67 of the Karnataka Land Revenue Act, 1964 that there should be summary enquiry in respect of occupation of a Government land by the revenue authorities. This has been banked on by the learned counsel for the appellants who are in occupation of Sy.No.305 of Kasarkod village and any eviction of the appellants shall be by the revenue authorities and therefore, the 3<sup>rd</sup> respondent has no jurisdiction to pass eviction order. It has been counted by the learned DGP that the appellants were



dispossessed from the premises in occupation by virtue of the Order of the Dy.Commissioner and therefore, there is a clear compliance of the law laid down by the Hon'ble High Court of Karnataka in the said case.

11. The learned counsel for the appellants relied upon the Judgment of the Hon'ble Apex Court in **AIR 2008 SUPREME COURT 876** in "**New India Assurance Co.Ltd. Vs. KLM Engineering Co.Pvt. Ltd.& Ors.**;" to the effect that in case of a notice of eviction is issued the person who received the notice not only entitled to show cause but also entitle to produce any evidence in support of cause shown. Herein this case the appellants claim that the 2<sup>nd</sup> and 3<sup>rd</sup> respondents are not the revenue officers, they have no jurisdiction to pass the Order of eviction. When such being so, as laid down by the Hon'ble High Court of Karnataka and also the Hon'ble Apex Court, action of the 2<sup>nd</sup> and 3<sup>rd</sup> respondents not being the revenue officers are not entitled to pass any order, contrary as directed by the Hon'ble High Court of Karnataka in W.P.No.100908-934/2016(GM-RES) dated 10.2.2016, the writ petitions challenging the Government Order No.LOE 119 PSP 2010 Bangalore dated 22.9.2010 and also on the basis of notices issued in No.BHUMI/CR-22/2015-16 dated 19.10.2015 and 24.11.2015 issued by the 3<sup>rd</sup> respondent. The Hon'ble High Court of Karnataka after discussing the facts elaborately held that the claim of the appellants before the High



Court as well as the District Court simultaneously is not maintainable and the jurisdiction of the Hon'ble High Court of Karnataka cannot be invoked simultaneously other than the rare and exceptional case. However, the Hon'ble High Court of Karnataka dismissing the writ petitions as not maintainable has observed thus:

**".... In view of the aforesaid reasons, the writ petitions filed by the petitioners are dismissed as premature. However, the respondents are directed to consider the representations of the petitioners and pass appropriate orders in accordance with law. Till such consideration of the representations, the respondents shall not dispossess the petitioners from the lands in question..."**

12. Upon the order of the Hon'ble High Court of Karnataka the 1<sup>st</sup> respondent has conducted enquiry on the representation of the appellants and passed the order confirming the eviction of the appellants from the property in question. Now the appellants are not challenging the order of the 1<sup>st</sup> respondent, dismissing their representation and direction for eviction of the appellants from the unauthorized occupants of the revenue lands. Upon the order of the 1<sup>st</sup> respondent all the appellants were already evicted and that action has not been challenged by any of the appellants. When the 1<sup>st</sup> respondent has complied the Order of the Hon'ble High Court of Karnataka and the appellants who are evicted from the premises, the Order of



the 3<sup>rd</sup> respondent in directing the appellants for eviction of the property is merged with the Order of the 1<sup>st</sup> respondent and as such the irrespective of the legality of the Order of the 3<sup>rd</sup> respondent, in view of the appellants being evicted from the property, all the appeals become infructuous and going enquiry into the Order of the 3<sup>rd</sup> respondent will not serve any purpose and as such, the contention of the appellants and also the arguments canvassed on behalf of the appellants by the learned counsel finds no force and therefore, these appeals stand infructuous and not maintainable. In the result, point No.1 and 2 are answered accordingly.

**Point No.3:**

13. In view of my findings on points No.1 and 2, my finding on this point is as per the following final order:

**ORDER**

The appeals filed by the appellants U/Sn.10 of Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974 are hereby dismissed.

Having regard to the facts and circumstances of the case the parties to bear their own costs.


Keep the original Order in Misc.Appeal No.1/2016 and the copies in other cases.

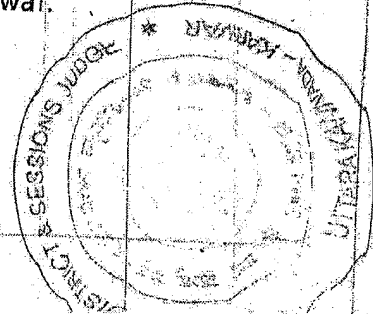
(Dictated to the Stenographer, transcribed by her, revised and corrected by me, signed and then pronounced in the Open Court on this the 7<sup>th</sup> day of January- 2019)

*21/1/2019*  
 (T.G.Shivashankare Gowda)  
 Prl.District & Sessions Judge,  
 Uttara Kannada, Karwar.

"True COPY"

(SSG)

  
 Chief Administrative Officer,  
 District & Sessions Court,  
 Uttara Kannada, Karwar.





## State Level Environment Impact Assessment Authority-Karnataka

(Constituted by MoEF, Government of India, under section 3(3) of E(P) Act, 1986)

No. SEIAA 22 IND 2011

Date:01.07.2019

### EXTENSION OF VALIDITY OF ENVIRONMENTAL CLEARANCE

#### Preamble:

Attention is invited to this Authority's letter No. SEIAA 22 IND 2011 dated 21<sup>st</sup> September 2012 regarding grant of Environmental Clearance for development of Barge/vessel loading facility from 4.9 MTPA of cargo at Coastal Sand Spit, Kasarkod Tonka village, Honnavar Taluk, Uttara Kannada District of M/s. Honnavar Port Pvt. Ltd.

Request has been made by M/s. Honnavar Port Pvt. Ltd. vide letter dated 06.03.2019 for extension of validity of the Environmental Clearance issued by another three years, as the project could not be completed due to various administrative reasons.

The State Level Environment Impact Assessment Authority, Karnataka considered the above request made during the meeting held on 18<sup>th</sup> May 2019 in the light of provision under para 9 of the Notification No. S.O. 1533(E) dated 14<sup>th</sup> September 2006. The Authority have decided to extend the validity of the Environmental Clearance issued vide letter No. SEIAA 22 IND 2011 dated 21<sup>st</sup> September 2012 for further period of three years from the date of expiry of validity of the said E.C. subject to strict implementation of the conditions of the Environmental Clearance dated 21<sup>st</sup> September 2012.

Hence the order.

### ORDER

Pursuant to the facts and circumstances in the preamble, the validity of the Environmental Clearance issued in favour of M/s. Honnavar Port Pvt. Ltd., # 103, Lalehzar Apartments, 45/I-2, Palace Road, Bangalore- 560 001 vide letter No. SEIAA 22 IND 2011 dated 21<sup>st</sup> September 2012 by the State Level Environment Impact Assessment Authority, Karnataka for the development of Barge/vessel loading facility from 4.9 MTPA of cargo at Coastal Sand Spit, Kasarkod Tonka village, Honnavar Taluk, Uttara Kannada District stands extended for a further period of three years from the date of expiry of validity of the said Environmental Clearance subject to condition that all other terms and conditions of the Environmental Clearance issued on 21<sup>st</sup> September 2012 shall be adhered to.



(Vijayakumar Gogi)  
Member Secretary,  
SEIAA.

To

M/s. Honnavar Port Pvt. Ltd.,  
# 103, Lalehzar Apartments,  
45/I-2, Palace Road, Bangalore- 560 001

..2

- 2 -

## Copy to:

1. The Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, Aliganj, New Delhi- 110003.
2. The Member Secretary, Karnataka State Pollution Control Board, Bangalore.
3. The APCCF, Regional Office, Ministry of Environment & Forests (SZ), Kendriya Sadan, IV Floor, E & F wings, 17<sup>th</sup> Main Road, Koramangala II Block, Bangalore-560 034.
4. The Regional Director (Environment), Department of Ecology and Environment, Karwar.
5. Guard File.

**IN THE HON'BLE HIGH COURT OF KARNATAKA AT  
BENGALURU  
(ORIGINAL JURISDICTION)**

**WRIT PETITION NO..... /2021 (PIL)**

**BETWEEN:**

**HONNAVAR TALUK HASIMEENU VYPARASTARA  
SANGHA (REGISTERED),**

Tonka-Kasarkod, Honnavar,

Uttara Kannada - 581 342.

Represented by its President

Sri.Ganapathi Iswar Tandel,

S/o. Late Iswar Durgayya Tandel,

Aged about 38 years.

**..PETITIONER**

**AND:**

1. **M/S. HONNAVAR PORT PVT LTD,**  
Registered office at No.103,  
Lalehzar Apartments,  
45/1-2, Palace Road,  
Bengaluru - 560 001.  
Phone: 080-22353670 / 080-41494960  
email: [info@honnavarport.com](mailto:info@honnavarport.com)  
Represented by its Authorized Representative
2. **THE PORT OFFICER,**  
Honnava Port,  
Honnava - 581 334.  
Uttara Kannada District.
3. **THE DIRECTOR OF PORTS, AND INLAND  
WATER TRANSPORT,**  
Karwar Port,  
Baithkol Village-581302.  
Karwar Taluk,  
Uttara Kannada District.

4. **THE DEPUTY COMMISSIONER,**  
Uttara Kannada District,  
Mini Vidhana Soudha,  
Karwar-581 301.
5. **THE PRINCIPAL SECRETARY,**  
PWD, Ports and Inland Water Transport Department,  
Government of Karnataka,  
Room No.333, 3rd Floor,  
Vikasa Soudha,  
Bengaluru - 560 001.
6. **THE STATE LEVEL ENVIRONMENT IMPACT  
ASSESSMENT AUTHORITY-KARNATAKA,**  
Department of Ecology and Environment,  
IV-Gate, Room No.709, 7<sup>th</sup> Floor,  
M.S.Building,  
Dr.Ambedkar Veedhi,  
Bengaluru-560 001.  
Represented by its Principal Secretary.
7. **THE KARNATAKA STATE POLLUTION  
CONTROL BOARD,**  
Represented by its Senior Environmental Officer,  
Regional Office,  
'Parisara Bhavan',  
LIG-II, B-217, Near Hari Om Trust,  
Habbuwada,  
Karwar-581 303.
8. **THE GRAMA PANCHAYAT,**  
Kasarkod,  
Honnavar - 581 342,  
Uttara Kannada District.
9. **THE SECRETARY,**  
Ministry of Environment & Forest  
And Climate Change,  
Government of India,  
Indira Paryavaran Bhavan,  
Jor Bagh Road,  
New Delhi - 110 003.

..RESPONDENTS

**MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226  
OF THE CONSTITUTION OF INDIA:**

The Petitioner above named most respectfully submits as follows:

**INTRODUCTION:**

1. The Petitioner is a Registered Association comprising of fisher folks and residents of Kasarkod-Tonka village in Honnavar Taluk, living besides the bank of Sharavati River, for several generations and are dependent on fishing and fisheries related activities. There are around 4000 fisher folks (men and women) directly dependent on fisheries and fishing activities and around 3000 members of the fishing community who depend on fish drying and trading on the beach situated in the 5 villages, namely Kasarkod, Honnavar, Pavinkurva, Malukurva and Karki, in Honnavar Taluk. The Coastal Zone Management Plan bearing Map No.KA25, Sheet No.D/4317 SE, issued by the Ministry of Forest, Ecology and Environment Department, Government of Karnataka, depicting the above said villages and the Arabian Sea and Sharavati River and the other villages, is produced herewith and marked as **ANNEXURE-A**.

2. The petitioner in this petition, which is filed in the form of Public Interest Litigation, is challenging the proposed construction of a port by the 1<sup>st</sup> Respondent herein on the eco-sensitive and a blue flagged beach, situated in Kasarkod, Honnavar and other beaches of Pavinkurva, Malukurva and Karki which are all adjacent and contiguous to each other and situated in Honnavar Taluk of Uttara Kannada District, without obtaining necessary consent from the Karnataka State Pollution Control Board. The said project is being undertaken on the basis of environmental clearance granted by the 6<sup>th</sup> Respondent herein, without authority of law, knowing fully well that the above mentioned beach falls within the CRZ-I and as such no commercial activity can be carried on.

3. The said development of port is being undertaken at a place where Arabian Sea and the Sharavati River meet (which is known as the 'Sangam' in Kannada and Hindi language). The above said project will lead to enormous ecological damage and destruction of flora and fauna and thereby the said beach will lose its pristine beauty in its natural form.

4. By the said construction around 12,600 people engaged in fishing activity carrying on their traditional / ancestral fishing avocation with the help of around 1415 different kinds of boats would lose their livelihood.

5. / The said construction is being carried out without obtaining the necessary consent from the 7<sup>th</sup> Respondent and also in utter violation of the terms and conditions of Lease Agreements at Annexures-B and D, which have been transferred to the Respondent No.1 herein vide Annexure-E, which annexures are referred to and produced below. The petitioner association having knocked the doors of almost all the respondents by way of various representations, has approached this Hon'ble Court for redressal of their grievance, as there is flagrant violation of various provisions of the Constitution of India, such as Article-19(1)(d), 19(1)(g), 21, 48(a), 51-A(g), 300-A etc. The said construction not only affects the life of the people in and around the above mentioned beach, but also affects the citizens of the neighboring taluka, such as Bhatkal, Karwar etc. The permanent stoppage of the said project by way of an order from this Hon'ble Court is extremely essential to avoid catastrophic consequences. ✓

6. There is no private interest involved in filing the present petition and it is filed in the larger interest of fisher folks, fisher community and general public at large residing in and around the above villages in Honnavar Taluka and other neighboring Talukas, such as Karwar, Bhatkal etc.

**FACTS LEADING TO THE FILING OF THIS PETITION:**

7. It is submitted that a Lease Agreement dated 07.04.2010 was entered into between the Director of Ports and M/s. North Canara Sea Ports -- GVPREL - Consortium, for usage of port land for port related activities at Honnavar Port. Copy of the Lease Agreement dated 07.04.2010 is produced herewith and marked as **ANNEXURE-B.**

8. The Government of Karnataka, represented by the Under Secretary-PWD, Ports and Inland Water Transport, Bengaluru, passed a Government Order dated 22.09.2020 bearing No.PWD.119.PSP.2010, Bengaluru, to the effect that M/s.North Canara Sea Ports - GVPREL - Consortium, Hyderabad, was given a permission to construct the Jetty and facilitate the anchoring activity, as mentioned in Map-A and Map-B, in an area having an extent of 8,47,560 square meters, and to develop this port

project after obtaining necessary permissions from the other departments. Certain conditions have been mentioned therein. Copy of the Government Order dated 22.09.2020 is produced herewith and marked as **ANNEXURE-C**. Further a Lease Agreement dated 11.10.2010 was entered into between the Director of Ports and M/s. North Canara Sea Ports – GVPREL – Consortium, for port related activities and ANCHORAGE operations at Honnavar Port. Copy of the lease agreement dated 11.10.2010 is produced herewith and marked as **ANNEXURE-D**.

9. It is submitted that a communication dated 07.04.2011 was addressed by the respondent No.5 to M/s. North Canara Sea Ports Pvt Ltd and GVPR Engineering Limited Consortium, wherein permission was accorded to transfer the subject matter of Lease Agreement dated 07.04.2010 and lease agreement dated 11.10.2010 in favour of M/s. Honnavar Ports Pvt Ltd, (SPV) without any change. Copy of the communication dated 07.04.2011 is produced herewith and marked as **ANNEXURE-E**. Also a communication dated 13.09.2011 was addressed by the State Level Expert Appraisal Committee, Karnataka, to Honnavar Port Pvt Ltd, regarding development of Barge-Vessel Loading Facility at Coastal Sand Spit, Kasarkod, Tonka, Honnavar,

containing Terms of Reference (TOR). Copy of the communication dated 13.09.2011 is produced herewith and marked as **ANNEXURE-F**.

10. It is submitted that the CRZ Clearance was issued on 24.11.2011, by Ministry of Environment and Forests (IA-III Division), Government of India in favour of M/s. Master Ship Yard Pvt Ltd, containing the CRZ clearance. Copy of the CRZ clearance dated 24.11.2011 is produced herewith and marked as **ANNEXURE-G**.

11. / It is further submitted that the 6<sup>th</sup> Respondent has issued an environmental clearance on 21.09.2012, to M/s. Honnavar Port Pvt Ltd. Copy of the Environment Clearance issued by the State Level Environment Impact Assessment Authority (Respondent No.6) on 21.09.2012 is produced herewith and marked as **ANNEXURE-H**. The Consent for establishment dated 06.02.2013 was issued by the Karnataka State Pollution Control Board to M/s. Honnavar Port Pvt Ltd. It has been mentioned therein that the said consent for establishment is co-terminus with the validity of Environment Clearance referred at Sl.No.5 therein. Copy of the Consent dated 06.02.2013 is produced

herewith and marked as **ANNEXURE-J**. Communication dated 26.03.2014 was issued to the Director of Ports & Inland Water Transport, Karwar- Respondent No.3, by the Respondent no.5 wherein the ports department was permitted to commence the work. Copy of the Communication dated 26.03.2014 issued to the Director of Ports & Inland Water Transport, Karwar, is produced herewith and marked as **ANNEXURE-K**.

12. It is submitted that on 30.04.2015, the Respondent No.3 issued Technical Approval to M/s.Honnavar Port Pvt Ltd for Development of Barge/Vessel Loading facilities at Honnavar Port. In the said communication, the details of the drawing that have been approved are listed out. Copy of the Technical Approval dated 30.04.2015, is produced herewith and marked as **ANNEXURE-L**. It is further submitted on 03-07/08-2015, 3<sup>rd</sup> Respondent, issued a letter to the Respondent no.1 informing that the plans/drawings for construction of Break Waters at Honnavar Port has been approved subject to conditions mentioned therein. The communication dated 03-07/08.2015 is produced herewith and marked as **ANNEXURE-M**. Also, on 03-07/08-2015, the 3<sup>rd</sup> respondent addressed another letter conveying approval to carry out the capital dredging work at

Honnavar Port subject to conditions mentioned therein. Copy of the said communication dated 03-07/08-2015, is produced herewith and marked as **ANNEXURE-N**. Further on 20.06.2018, a communication was sent by the 7<sup>th</sup> Respondent to 1<sup>st</sup> Respondent mentioning about the non-compliance under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, (for short referred to as "Water Act and Air Act"). Copy of the said communication dated 20.06.2018 is produced herewith and marked as **ANNEXURE-P**. A further communication dated 01.07.2019 was issued by the 6<sup>th</sup> Respondent to 1<sup>st</sup> respondent conveying the extension of validity of Environmental Clearance for a further period of 3 years from the date of expiry of the validity of the Environmental clearance dated 21.09.2012. Copy of the said communication dated 01.07.2019 is produced herewith and marked as **ANNEXURE-Q**.

13. It is further submitted that on 19.02.2020, a reply was given by the 7<sup>th</sup> Respondent to Mr. Vivian Fernandes, stating that there is no record regarding consent obtained in respect of the above said port expansion project in Kasarkod, Tonka, Honnavar Taluka, Under Water and Air Act. Copy of the reply dated

19.02.2020 to the RTI query is produced herewith and marked as **ANNEXURE-R**. It is submitted that a communication dated 04.07.2020 was issued by the Principal Chief Conservator of Forests (Head of Forest Force), Government of Karnataka, to the Assistant Executive Engineer, Port Department, Honnavar, stating that crucial information required for processing of the proposal under FC act 1980 has not been provided completely. The said communication dated 04.07.2020 is produced herewith and marked as **ANNEXURE-S**. The Representation dated 14.02.2020 submitted to the Deputy Commissioner, Uttara Kannada, Karwar from Purse-seine Boat Maalikara Sangha (Regd), Karavali Meenugarara Karmika Sangha, Trawl Boat Maalikara Sangha, is produced herewith and marked as **ANNEXURE-T**.

14. It is further submitted that as soon as the local villagers, residents, fishermen etc., got to know about the said construction, several representations were given to various authorities. Few of them are as under.

15. On 17.02.2020, a representation was submitted to the Secretary to the Government, Ecology and Environment,

and will have a serious impact on the nature and ecology because the same is being undertaken at a place where there is confluence of Arabian sea and the Sharavati River, at the places mentioned above. It will lead to destruction of water bodies and impair its reproduction permanently. It will lead to pollution of water and will have harmful effects on the drinking water that is being supplied to the neighbouring villages.

22. The pristine beauty in its natural form of the above mentioned beaches / place would be completely destroyed in the event the above said construction is allowed to continue. Various photographs evidencing the said beach / river/fishing dock at Honnavar and the construction activities are produced herewith and collectively marked as **ANNEXURES-Z to Z-13**. Annexure-Z depicts the beach along with a fishing trawler and thick vegetation alongside the coast. Annexure-Z-1, depicts the ongoing Construction activity and most importantly the sand stored for construction purpose has submerged with the river/sea, which is clearly visible from Annexure Z-2, which is taken from a close distance. Annexure-Z-3, depicts the various machineries installed for the said purpose. Annexure-Z-4, depicts the display board containing the layout map of Kasarkod Eco

Beach, which is displayed in the said beach. Annexures-Z-5 and Z-6, depicts the Kasarkod Beach, Sea, Walking Track etc. Annexure-Z-7, depicts the beach information board erected on the said beach. Annexures-Z-8 to Z-10 depicts the aerial view of the Honnavar fishing dock. Annexures-Z-11 and Z-12 depicts the aerial view of the beaches and Annexure-Z-13 depicts the Blu Flagged Beach (eco beach), at Kasarkod. The said board contains various details such as information for tourists, information on environmental activities, beach eco system, important contact information, information on natural environment of the beach and the surrounding area, flora and fauna, information about tourist safety and other details.

23. The perusal of the map at Annexure-A would clearly establish that the said construction falls within the Coastal Regulatory Zone-1 ('CRZ-1' for short). The area where the above said construction is going on, is marked for the sake of clarity and mentioned as 'Construction in Progress'. The perusal of the legend in the said map on the right hand side depicts CRZ-1B in blue color dots and the same is in the place where the said construction is in progress. Next to the same, on the right hand side is Sharavati River and on the left hand side is the Arabian

Sea. Further, villages of Kasarkod, Honnavar and Pavinkurva are depicted in the said map in the area where the said construction is in progress. In fact Malukurva village is not depicted in the said map at all as the same has submerged with Honnavar.

24. The above said construction would lead to violation of Article 19(1)(g) of Constitution of India which deals with right of all the citizens to practice any profession or to carry on any occupation, trade or business. The above mentioned beaches are being used for fishing activity by the Fishermen in and around Honnavara Taluk and as a result of the said construction activity, Fishermen will not be able to carry on the fishing activity as they have been using the shore of the Arabian Sea /Sharavathi River to park their Boats, Dingies, Trawalers etc., which will be stopped as a result of this expansion. Their livelihood entirely depends on fishing activity which will be forcibly snatched from them leading to the violation of Article 21 of the Constitution of India. It is noteworthy to mention here that even the fisherwomen earn their livelihood by selling the fish, that is caught by the fishermen in the said Beaches, and as such, even their daily bread would be taken away. The movement of huge barge (loading vessel) in the sea will be a severe blow to all the

fishermen engaged in fishing activity through mechanized boats. It is relevant to mention here that the Fishermen are by avocation and tradition carrying on the activity of fishing since time immemorial for several generations and by the said construction project they would be jobless and will be reduced to the state of penury.

25. The Assistant Director, Fisheries (Grade-II), Honnavar, Uttara Kannada, has addressed a communication dated 25.02.2020 to the President of Belakonda Meenugaarika Sahakara Sangha Niyamitha, Honnavar, mentioning that there are 23,500 fishermen, carrying on their traditional / ancestral fishing avocation with the help of around 1415 different kinds of boats, and that they would lose their livelihood. The said communication is produced herewith and marked as **ANNEXURE-AA**, where in it is mentioned that there are 17 Purse-seine boats, 161 Trawlers, 342 Gillnet boats, 895 Regular boats. Hence, in the event if the said construction is not stopped, then thousands of people would lose their livelihood.

26. The right to catch and carry away the fish being a profit or benefit arising out of the land, has to be regarded as immovable

property within the meaning of Transfer of Property Act, as held by the Supreme Court in the case of *Bihar Eastern Gangetic Fishermen Co-operative Society Limited vs. Sipahi Singh and others*. Further the privy council around 100 years back, in the case of *Matamajaw Salmon Club vs. Duchaine*, reported as AIR 1921 Privy Council 200, has held that title to take the fish is a title to take the product of the river, while dealing with ownership with regard to fishing rights. In the famous case of *Delhi Transport Corporation v/s D.T.C. Mazdoor Congress and others* reported as 1991 Supp(1) SCC 600, the Constitution Bench of the Supreme Court, in paragraph-298 of the said judgment has held that Article 21 guarantees the right to live which includes right to livelihood, the deprivation thereof must be in accordance with the procedure prescribed by law conformable to the mandates of Articles 14 and 21 has to be fair, just and reasonable but not fanciful, oppressive or at vagary.

27. The right of the citizens to enjoy and make use of the said Beach will be completely stopped as a result of the said project and in fact all the beaches adjoining these villages will be rendered useless and no common citizen would be in a position

to make use of the same because barricades would be put all around the beach area. Presently the said beach is being used by the citizens for the purpose of their morning and evening walks, children play in the said beach, is used for the purpose of swimming, fishing activities are carried out in a massive scale and other aqua marine and water sports are carried out in the said beach. During rainy season it is used as grazing field for cattles and other animals because there is thick growth of grass. As a result of the said project, all the activities would be completely stopped and virtually there will be no place for amusement for the citizens of Honnavar and other neighboring places. It will have harmful effects on the health of the people residing in and around the said area and will lead to deadly diseases, such as cancer, thyroid, respiratory problem, diseases related to intestine etc., and would also lead to Air and Water Pollution.

28. It has been consistently held by the Supreme Court of India in catena of judgments that environmental, ecological, air, water pollution etc., should be regarded as amounting to violation of Article 21 of the Constitution of India. The said view is taken in the case of *Virender Gaur and others v/s State of*

***Haryana and others reported as (1995)2 SCC 577.*** It has been held that Articles 21 and 48-A, 47 and 51-A(g) comprehend right to hygienic environment protection. Government as well as Municipality is obliged to maintain and protect environment, manmade as well as natural. Article 21 protects right to life as a fundamental right. Enjoyment of life and attainment including their right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance, free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution, as in this case.

29. Article 48-A of the Constitution of India provides for protection and improvement of environment and safeguarding of forest and wildlife. With the present expansion project there will be serious impact on the environment, forest, wildlife etc. and without taking into consideration the said aspects, the expansion project has been embarked upon. Even Article 49 of the Constitution of India states that it shall be the obligation of the State to protect every monument or place or objects of artistic or historic interest, [declared by or under law made by parliament] to be of National importance, from spoliation, disfigurement,

destruction, removal, disposal or export, as the case may be. However, the said aspects have not at all been taken into consideration.

30 Article 51-A(g) deals with duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures. Keeping this aspect in mind also the Petitioner has filed the present Petition with the fond hope that this Honorable Court would intervene and thereby avoid drastic destruction and damage that would be caused to the environment as a whole.

31. In fact it is apposite to rely on the judgment of the Supreme Court in the case of *M.C.Mehta v/s Kamal Nath and others reported as (1997)1 SCC 388*, wherein the Supreme Court has in detail dealt with the concept of Public Trust Doctrine and held that it extends to natural resources such as Rivers, Forests, Sea Shores, Air etc., for the purpose of protecting the ecosystem. Paras-25 and 35 of the said judgment read as under:

**"25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as**

a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority:

*"Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second the property may not be sold, even for a fair cash equivalent; and third the property must be maintained for particular types of uses."*

*"35. We are fully aware that the issues presented in this case illustrate the classic struggle between those members of the public who would preserve our rivers,*

*forests, parks and open lands in their pristine purity and those charged with administrative responsibilities who, under the pressures of the changing needs of an increasingly complex society, find it necessary to encroach to some extent upon open lands heretofore considered inviolate to change. The resolution of this conflict in any given case is for the legislature and not the courts. If there is a law made by Parliament or the State Legislatures the courts can serve as an instrument of determining legislative intent in the exercise of its powers of judicial review under the Constitution. But in the absence of any legislation, the executive acting under the doctrine of public trust cannot abdicate the natural resources and convert them into private ownership, or for commercial use. The aesthetic use and the pristine glory of the natural resources, the environment and the ecosystems of our country cannot be permitted to be eroded for private, commercial or any other use unless the courts find it necessary, in good faith, for the public good and in public interest to encroach upon the said resources".*

32. The perusal of Annexure-H, being the Environmental Clearance dated 21.09.2012, granted by the 6<sup>th</sup> Respondent in favour of the 1<sup>st</sup> Respondent would indicate that the Respondent Nos.1 and 2 had to obtain necessary permission from other authorities, such as the Karnataka State Pollution Control Board, the Respondent No.7. Further the consent for establishment dated 06.02.2013 at Annexure-J granted by the Respondent No.7, would indicate that the said consent is co-terminus with the validity of the environmental clearance, as mentioned therein at Sl. No.1 of the condition column. This would categorically establish that the consent granted expired with the expiry of environmental clearance granted at Annexure-H. Annexure-R dated 01.07.2019, extends the validity of EC by further period of 3 years from the date of expiry of validity of said EC subject to all other terms and conditions of the EC issued on 21.09.2012. It is pertinent to mention here that any environmental clearance granted in respect of a project is valid for a period of 7 years. The notification dated 14<sup>th</sup> September 2006, issued by the Ministry of Environment and Forests, Government of India, ("EIA Notification" for short), is produced herewith and marked as **ANNEXURE-AB**. Paragraph No.9 of the said notification on page

no.8, deals with validity of Environmental Clearance (EC). As per the same, the Environmental Clearance is valid for a period of thirty years for mining projects and five years in the case of all other projects and activities. The said validity period has been extended from five years to seven years by way of a notification dated 29.04.2015, issued by the Ministry of Environment, Forest and Climate Change, which is published in the Gazette of India on April 30, 2015. The said Gazette notification dated 30.04.2015 is produced herewith and marked as **ANNEXURE-AB(1)**.

33. The perusal of Annexure-P being the communication dated 20.06.2018, addressed by the Respondent No.7 to Respondent no.1 clearly speaks about the non-compliance of the provisions of Water Act and Air Act. Further it has been mentioned that the Respondent No.1 had obtained Consent for Establishment on 06.02.2013, from Respondent No.7, which contained a condition that the applicant shall apply for consent for operation 45 days in advance to the commissioning even the trial production of the plant along with necessary documents. But the same has not been applied by the Respondent No.1. Further it has been mentioned that the Respondent No.1 has to apply for renewal of

consent application under both Water and Air Acts through online along with the details mentioned therein within 7 days from the receipt of the said notice.

34. Further in Annexure-R, being the communication dated 19.02.2020, issued by the Karnataka State Pollution Control Board, in response to a RTI query sought by one of the residents of the said area, it has been categorically mentioned that there is no record regarding obtaining of any consent in respect of the above mentioned project in question under Water and Air Act.

35. The end result that emerges from a careful perusal of the above documents is that there is no valid consent issued in favour of the Respondent No.1 herein, who is actually carrying on with the construction activity nor the 2<sup>nd</sup> Respondent herein, who is in charge of the said port has obtained any consent.

36. The communication dated 08.02.2021 addressed by the Public Development Officer, Grama Panchayat, Kasarkod, Honnavar Taluk, Uttara Kannada, addressed to the president of the Petitioner Association in response to their RTI query dated 08.02.2021 would throw light on the fact that the Respondent No.1 herein has not obtained any permission to construct / lay a

road in the above mentioned area. The said communication is produced herewith marked as **ANNEXURE-AC**. Further there is no record to indicate that necessary permission / approval has been obtained from the Karnataka State Coastal Zone Management Authority (KSCZMA)

37. It is relevant to mention here that the Assistant Executive Engineer of Respondent No.2 has in the application submitted in Form-A, Part-I, seeking approval from Central Government under Section-2 of the Forest (Conservation) Act, 1980, for diversion of fresh forest area has in column-A pertaining to General Details mentioned that there is requirement of forest land to the extent of 0.76 Hectare in forest Survey No.233 and 237 of Kasarkod village, Honnavar Taluka and Division, Uttara Kannada District, for approach road from NH-66 to Kasarkod side of Honnavar Port in favour of Assistant Executive Engineer and Nodal Officer, P.W, PIWT Department, Port Sub Division. The details of the user agency has been mentioned as Port Department, Honnavar. In Column-B the details of lands require for the project is mentioned in detail. The said FORM-A, bearing proposal No.FP/KA/Road/41625/2019, is produced herewith and marked as **ANNEXURE-AD**.

38. However, in the updated Form-I submitted in March 2019 by Respondent No.1 for extension of Environmental / CRZ Clearance validity for barge/vessel loading facility, at Kasarkod Tonka, Honnavar, Uttara Kannada District, Karnataka, which report is prepared by L&T Infra Engineering, L&T Infrastructure Engineering Limited, in the basic information column at Sl.No.19 on Page No.3, under the item "*whether the proposal involves approval / clearance under the Forest (Conservation) Act, 1980, in the details column it has been mentioned as not applicable barge / vessel loading facility does not attract Forest (Conservation) Act, 1980*". The said updated Form-I dated March 2019, is produced herewith and marked as **ANNEXURE-AE**. This itself would indicate that the Respondent No.2 has been filing misleading applications with false details and hence the present construction needs to be stopped as it will impact the forest area also and most importantly the construction of road is being carried out without obtaining necessary approvals from the Forest Department which is in utter violation of the conditions of Lease at Annexures- B, D and E.

39. The comparison of two maps of Karnataka Coastal Kasarkod village of the year 2012 and 1923 would establish that there has been change of coast line village border at Pavinkurva, Karki, Malukurva and Kasarkod villages of Honnavar Taluka, where the present construction is being undertaken by the Respondent No.1. The said maps evidencing the same are collectively marked as **ANNEXURE-AF to AF-2**. The newspaper article in the New Indian Express English Daily, with the caption ***"villages in Honnavar missing: change in National Border raises hackles"*** is produced herewith and marked as **ANNEXURE-AG**. The letter dated 11.02.2021 addressed by the Survey of India to the Deputy Commissioner, Uttara Kannada (Respondent No.1), would establish that the said letter has been addressed pursuant to the complaint regarding change of coast line village borders at Pavinkurva, Karki, Malukurva and Kasarkod villages of Honnavar Taluka by the District Administration and ADLR in the interest of a private company - Honnavar Port Pvt Ltd (Respondent No.1) and that the said change in coast line / coastal border is against the Coastal Zone Management Plan (KCZMP), which were approved in 2018. Hence, the concerned maps of the area have been sought for by

the Survey of India at the earliest from the Respondent No.4. The said letter dated 11.02.2021 is produced herewith and marked as **ANNEXURE-AH**. This itself would indicate that the Respondent No.4 in connivance with and for the benefit of Respondent No.1 indulged in the above said illegal act, which requires to be enquired into.

40. Another map prepared as per the Coastal Regulation Zone Notification, 2011, by the Ministry of Forest, Ecology and Environment Department, Government of Karnataka, is produced herewith and marked as **ANNEXURE-AJ**, which evidences that there has been change in the location of the above said construction. The index on the right hand side at SI.No.1 refers to the proposed port project location as per the Government Order, which is in RED and SI.No.2 refers to the existing work location (land grab). SI.No.1 is encircled in RED colour and SI.No.2 is encircled in BLUE colour. This would categorically establish that there has been a change in the original location for the said construction project, for which the environmental clearance has been granted and as such would also amount to violation of terms of lease at Annexures- B and D as categorically mentioned in condition No. 42 of Annexure-B and in condition

No. 44 of Annexure-D and hence the same is liable to be quashed along with Annexure-E.

41. Further it is relevant to mention here that recently several eggs of Sea Turtle were found in and around the above said beaches. Photograph evidencing the same is produced herewith and marked as **ANNEXURE-AK**. The Department of Forest, Government of Karnataka, has protected the same by fencing the said area. The photograph evidencing the same is produced herewith and marked as **ANNEXURE-AK(1)**. The Principal Secretary to Government (Ecology and Environment) Forest, Ecology and Environment Department, Government of Karnataka has addressed a letter dated 15.10.2020 bearing No.FEE 49 CRZ 2020, to the Project Director, Project Management Unit, Sustainable Coastal Protection and Management Investment Program, Old Mangalore Port Office Building, Mangalore, with reference to CRZ Clearance for Coastal Erosion Protection Works, at Uttara Kannada District. In the said letter the CRZ Clearance for Coastal Erosion Protection Works at selected location in Uttara Kannada District has been issued subject to the conditions mentioned therein. Condition No.1 reads as under:-

***"No work should be undertaken in turtle nesting areas and ecologically sensitive areas"***

From the reading of the same, it is clear that no activity should be undertaken in areas where there is turtle nesting, as in the present case as forthcoming from Annexures-AK and AK(1). The above said letter dated 15.10.2020 is produced herewith and marked as **ANNEXURE-AK(2)**.

42. The Notification dated 18<sup>th</sup> January 2019, issued by Ministry of Environment, Forest and Climate Change, Government of India, as published in the Gazette of India: Extraordinary, contains the classification of CRZ at paragraph-2.0. At paragraph-2.1 it is mentioned that CRZ-I areas are environmentally most critical and are further classified as under:  
2.1.1 CRZ-I A shall constitute the following ecologically sensitive areas (ESAs) and the geo-morphological features which play a role in maintaining the integrity of the coast viz.: (i) mangroves, (ii) Corals and Coral Reefs, (iii) Sand Dunes, (iv) Biologically active mudflats, (v) National Parks, Marine Parks, Sanctuaries and Reserve Forests, Wild life habitats and other protected areas under the provisions of the Wild Life (Protection) Act, 1972,

Forest (Conservation), Act, 1980 or Environment (Protection) Act, 1986, including Biosphere Reserves, (vi) Salt Marshes, (vii) Turtle nesting grounds, (viii) Horse shoe crabs habitats, (ix) Sea grass beds, (x) Nesting grounds of birds, (xi) Areas or structures of Archeological importance and heritage sites. Further the said notification contains the other CRZ classifications, areas requiring special consideration in the CRZ, prohibited activities within CRZ, regulations of permissible activities in CRZ-I, CRZ-IA and other zones, Coastal Zone Management Plan etc. The said notification is produced herewith and marked as **ANNEXURE-AK(3)**.

43. The perusal of paragraph-5.1.1, which deals with CRZ-IA states that these areas are ecologically most sensitive and generally no activities shall be permitted to be carried out in CRZ-IA area, with the exceptions mentioned therein. The present construction work is being carried out in a CRZ-IA area, as forthcoming from the map at Annexure-A and as such the said construction of port does not fall within the exceptions, as mentioned therein. In fact paragraph-4 deals with prohibited activities within CRZ and sub-para-(vii) refers to Port and Harbour Projects in high eroding stretches of the coast. Therefore, the said project requires to be stopped on this ground

also. Further, it is submitted that the beaches referred above where the construction is being undertaken has all the characteristics as mentioned in 2.1.1 of the said notification and as such falls within the bracket of **Ecologically Sensitive Areas (ESAs)**.

44. Further paragraph-3.0 of the said notification refers to "**Areas requiring special consideration in the CRZ**". Further it refers to the coastal areas which shall be accorded special consideration for the purpose of protecting the critical coastal environment and difficulties faced by local communities. Paragraph-3.1 refers to Critically Vulnerable Coastal Areas (CVCA), where under ecologically sensitive areas identified under Environment (Protection) Act, 1986, fall within the said ambit of CVCA. The present project being undertaken in CRZ-IA area, which falls within the ecologically sensitive area, as enumerated in paragraph-2.1.1 of the notification, becomes a Critically Vulnerable Coastal Area. Further paragraph-10 deals with areas requiring special consideration and paragraph-10.1 deals with Critically Vulnerable Coastal Area. The 2019 notification being the notification that is in force as on date, the same is applicable to the present project in question. In fact the Hon'ble Supreme

Court has in the case of "*Kapico Kerala Resorts Pvt Ltd vs. State of Kerala, reported as (2020) 3 SCC 18 has discussed in detail the ramification of the 2019 notification*".

45. The perusal of Annexure-B would indicate that the 3<sup>rd</sup> Respondent has entered into Lease Deed with M/s. North Canara Sea Ports GVPREL-Consortium on 07.04.2010, which has been vide Annexure-E transferred to the 1<sup>st</sup> Respondent herein as the legal entity for implementing the recitals / tenets of lease agreement at Annexure-B and Annexure-D. However, perusal of Annexure-G would indicate that the CRZ Clearance is in favour of one M/s. Mastership Yard Pvt Ltd issued by the 9<sup>th</sup> Respondent on 24.11.2011 and that there is no record evidencing grant of CRZ Clearance in favour of Respondent No.1 herein.

46. An office memorandum dated 2<sup>nd</sup> December 2009 bearing No.J-11013 41 2006-IA.II(I) issued by the Ministry of Environment and Forest, Government of India, New Delhi, contains the procedure for consideration of proposals for grant of environmental clearance under EIA Notification, 2006, which involve forest land and wild habitat. At paragraph-2 (iii) it has

been mentioned that a specific condition shall be stipulated that the Environmental Clearance is subject to their obtaining prior clearance from Forestry and Wild Life angle including clearance from the standing committee of the National Board for Wild life as applicable. Further it will always be categorically stated in the Environment Clearance that grant of Environmental Clearance does not necessarily implies that Forestry and Wild life Clearance shall be granted to the project and that their proposal for Forestry and Wild life clearance will be considered by the respective authorities on their merits and decision taken. **Further it is clearly mentioned that the investment made in the project, if any, based on Environmental Clearance so granted, in anticipation of clearance from Forestry and Wild life angle shall entirely be at the cost of project proponent and Ministry of Environment and Forest shall not be responsible in this regard in any manner. The said Office Memorandum is produced herewith and marked as ANNEXURE-AL.** It is submitted that there is no clearance whatsoever from the National Board for Wild Life and hence the said construction project needs to be stopped on this ground also.

47. This Hon'ble Court in W.P.No.1332 / 2020, by an interim order dated 23.01.2020 was pleased to issue various interim directions in respect of a similar construction project that was being carried out on the Rabindranath Tagore Beach at Karwar without obtaining valid consent from the Pollution Board and in violation of various provisions of law. The court was pleased to order restoration of the beach to its original condition. The Certified Copy of the said interim order is produced herewith and marked as **ANNEXURE-AM**. The said writ petition is pending and the final hearing is in progress and is posted for further hearing on 03.03.2021.

48. The petitioner craves leave of this Hon'ble Court to produce any other document or material in support of their case in future and to place any other relevant facts on record.

**GROUNDNS FOR INTERIM PRAYER**

49. The grounds urged in the writ petition may be treated as part and parcel of the grounds for the interim relief. Further the said construction that is being carried out by Respondent No.1 is illegal, because the same falls within CRZ-IA and as such the project in question is a prohibited activity. Further the same is being carried on without necessary Consent for Establishment (CFE) from the 7<sup>th</sup> respondent and also without obtaining permission from the other concerned authorities. In the event the interim relief is not granted, then the Respondent No.1 will continue with the construction activity, which will have a serious impact on the ecology and environment. There will be large scale destruction of natural resources. Livelihood of thousands of Fishermen and Fisherwomen would be taken away, and the main prayers sought for in the writ petition would be rendered infructuous. This Hon'ble Court may be pleased to pass interim order similar to the interim order passed in W.P.No.1332/2020 dated 23.01.2020 at Annexure-A1referred to above.

**PRAYER:**

Wherefore it is most respectfully prayed that this Hon'ble court be pleased to:

- (a) Issue a Writ of Mandamus directing the Respondent Nos.1 to 5 not to continue with the construction of the port on the beaches of Kasarkod, Malukurva, Pavinkurve, Karki and Honnavar, in Honnavar Taluka, of Uttara Kannada District.
- (b) Issue a Writ of Certiorari, quashing the environmental clearance dated 21<sup>st</sup> September 2012, issued by the Respondent No.6, vide **ANNEXURE-H**.
- (c) Issue a Writ of Certiorari, quashing the order dated 01.07.2019 bearing No.SEIAA 22 IND 2011, issued by the Respondent No.6, extending the environmental clearance dated 21<sup>st</sup> September 2012, for a further period of 3 years, vide **ANNEXURE-Q**.
- (d) Issue a Writ of Certiorari, quashing **Annexure-B** being the Lease Agreement dated 07.04.2010, entered into between the respondent No. 3 and M/s.

North Canara Sea Ports - GVPREL - Consortium, for usage of port land for port related activities at Honnavar Port.

- (e) Issue a Writ of Certiorari, quashing **Annexure-D**, being Lease Agreement dated 11.10.2010, entered into between the respondent No.3 and M/s. North Canara Sea Ports - GVPREL - Consortium, for port related activities and ANCHORAGE operations at Honnavar Port.
- (f) Issue a Writ of Certiorari, quashing **Annexure-E** where in permission was accorded by the Respondent No.5 to transfer the subject matter of Lease Agreement dated 07.04.2010 and lease agreement dated 11.10.2010 in favour of the Respondent No.1 without any change.
- (g) Issue a Writ of Mandamus directing the Respondent No.7 to initiate suitable action in accordance with law against Respondent No.1 for commencing the work

without obtaining consent under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974.

- (h) Issue a Writ of Mandamus, permanently injunctiong the Respondent Nos.1 to 5 and 8 from putting up any construction on the beaches of Kasarkod, Malukurva, Pavinkurva, Karki and Honnavar, in Honnavar Taluka.
- (j) Issue a Writ of Mandamus, directing Respondent Nos.6 and 9, to discharge their official duty strictly in accordance with law and to implement the respective notifications issued by the State and the Central Government in its letter and spirit for protecting the environment, ecology, forests etc.
- (k) Issue a Writ of Mandamus directing the Respondent No.4 to carry on the administration of the District of Uttara Kannada, strictly in accordance with law, in the interest of general public and to take steps to


protect the ecology, environment, natural resources etc., in its pristine form.

- (l) Pass an order in the nature of declaration, declaring the beaches of Kasarkod, Malukurva, Pavinkurva, Karki and Honnavar, to be within the Ecologically Sensitive Area as per the notification dated 18<sup>th</sup> January 2019, issued by the Respondent No.9, vide Annexure-AK(3).
- (m) Pass appropriate order directing enquiry by an independent investigation agency, with regard to the allegations of change in the coast line village border, at Pavinkurva, Karki, Malukurva and Kasarkod villages of Honnavar Taluka, by Respondent No.4 for the benefit of Respondent No. 1, as per Annexures-AF to AG.
- (n) Pass such other orders, directions, writ etc., as this Hon'ble Court may deem fit, in the interest of justice and equity.

**INTERIM PRAYER**

Pending disposal of the above writ petition, this Hon'ble Court may be pleased to direct the Respondent Nos.1 to 2 to stop further construction on the beaches of Kasarkod, Malukurva, Pavinkurva, Karki and Honnavar, in Honnavar Taluka, and further be pleased to direct the restoration of the said beaches to its original condition, in the interest of justice and equity..

Bengaluru  
Dated: 22.02.2021

  
(Murthy Dayanand Naik)  
Advocate for Petitioner

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R-14

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE****W.P.No.4039/2021 (PIL)****Between:**Honnavar Taluk Hasimeenu Vyparastara  
Sangha (Regd.)

.. PETITIONER

**And**

M/s. Honnavar Port Pvt. Ltd. and others

.. RESPONDENTS

**STATEMENT OF OBJECTION OF RESPONDENT No.1 TO THE  
MAIN WRIT PETITION**

The Respondent No.1 above named respectfully submits as follows:

1. The above Writ Petition is wholly false, frivolous and vexatious and is not maintainable either in law or on facts. It has been filed only with an intention to harass this respondent and coerce them into terms. The Writ Petition lacks bonafides and is liable to be dismissed in limine.

**DELAY AND LACHES**

2. The above Writ Petition has been filed challenging the lease agreement dated 11.10.2010 and the Environment Clearance dated 21.09.2012. The Writ Petition is hopelessly barred by limitation. It is liable to be dismissed on grounds of delay and laches. The Hon'ble Supreme Court of India has held in a number of judgements that even a public interest litigation (PIL) is liable to be dismissed in case of delay [for example, DDA-v-Rajendra Singh

reported in **2009(8) SCC 582**]. Hon'ble Supreme Court dismissed a public interest petition filed after a delay of 5 months in the case of Ramana Dayarama Shetty-v-International Airport Authority of India, reported in **1979(3) SCC 489**.

### **SUPPRESSION OF MATERIAL FACTS**

3. The Writ Petition is also liable to be dismissed on the ground of suppression of material facts. Several members of the petitioner's association were unauthorized occupants of the lands of the Government, part of which was leased to this respondent. The Government initiated proceedings to remove them from the unauthorized occupation under the provisions of Public Premises Eviction of Unauthorized Occupants Act. The said action was challenged by some of the unauthorized occupants and their petition came to be dismissed by the learned Single of this Hon'ble Court in W.P.No.100908-934/2016(GM-Res) vide order dated 10.02.2016. The order of the learned single Judge was challenged before the Division Bench of this Hon'ble Court in W.A.No.100303/2016 & 101144-101169/2016 (GM-Res) and the Division Bench was pleased to dismiss the writ appeal vide its order dated 20.09.2016. Copies of orders in W.P.No.100908-934/2016 (GM-Res) and W.A.No.100303/2016 & 101144-101169/2016 (GM-Res) are produced herewith and marked as **Annexures - R1& R2**.

4. Even though there was no obligation, respondent out of humanitarian consideration has paid a lump-sum ex-gratia amount to the encroachers who are the members of the petitioner's association and in this regard, agreements were entered into

between this respondent and encroachers/members of the petitioner's association. Copies of agreements are produced herewith and collectively marked as **Annexure - R3 (colly)**.

### **STUDY CONDUCTED REGARDING IMPACT ON FLORA & FAUNA**

5. The petitioners have contended that there has been no proper study conducted before the clearances and permissions were granted to this respondent for the project in question. This is also not true. At the behest of the State Government, Environment Impact Assessment (EIA) study was conducted by L&T Ramboll (Authorized agency of Ministry of Environment & Forest) to conduct EIA studies and reports. A detailed study of the Environment Impact Assessment (EIA) of the project in question was conducted including each and every aspect of the environment, fish culture, tissue culture and flora and fauna studies etc. A detailed EIA report was prepared in February 2012 itself in the name and style of 'Final EIA report for Honnavar Port Barge/Vessel loading facility which report consists of over 500 pages. Copy of the Final EIA report is produced herewith and marked as **Annexure - R4**. In addition to these, various other studies were conducted which included each and every aspect of the environment, such as:

- CRZ studies by National Centre of Earth Science Study (NCESS), by Ministry of Earth Sciences, Government of India.
- Mathematical modelling studies by Central Water & Power Research Station (CWPRS) Govt. of India.
- Ambient Air & Water quality studies by Vision Labs, recognised & certified by (Ministry of Environment & Forest, Govt. of India).

- Bathymetry & Marine studies by Indomer Coastal Hydraulics, accredited & certified by (Ministry of Science & Technology, Govt. of India).
- Geo Technical Investigations by Fugro Geo tech (India).
- Marine baseline & Bio diversity surveys were conducted by the Department of Meteorology & Oceanography, Andhra University.

6. It is there after the Environment/CRZ Clearance has been issued to the project, copy of which is produced at Annexure - H to the writ petition.

7. Details of Fishing Villages, Fishing activities and Fish Landing Centres are provided in Section 4.8.4 of Final EIA Report. Physical demarcation of HTL, LTL and delineation of CRZ setbacks for the project site were carried out by National Centre of Earth Science Study (NCESS), by Ministry of Earth Sciences, Government of India has carried out studies, copy of the Report of NCESS is produced herewith and marked as **Annexure - R5** and as per the CRZ Notification, 2011 and the HTL/LTL, survey outcome clearly bears out the following:

- Proposed site falls on the sandy beach near the river mouth;
- CRZ Setback lines indicate that the proposed barge/vessel loading site mostly falls within the CRZ I (B) (i.e., Area between LTL and HTL), CRZ (III) undeveloped rural area and CRZ IV (near shore waters and backwaters);
- Proposed location does not contain environmentally sensitive areas such as National Parks / Marine Parks,

Sanctuaries. Wildlife Habitats, Corals / Coral Reefs. It also does not include breeding and sprawling grounds of fish and other marine lives, are of outstanding natural beauty/historically/heritage area, area rich in genetic diversity;

- Based on perusal of Coastal Regulation Zone (CRZ) Notification, 2011 and Karnataka Coastal Zone Management Plan (CZMP), Proposed Honnavar barge/vessel loading is a permissible activity in CRZ as it requires waterfront and foreshore facilities.

8. Petitioner has also falsely alleged that the respondent has not obtained consent from the Pollution Control Board, which again is a false statement. The project layout superimposed on HTL, LTL and CRZ setbacks is given in the Final EIA Report February 2012(Annexure - R4 above). [Port layout on Approved Coastal Zone Management Plan of Karnataka {Map No. KA25, Sheet No. D/4317 SE}]. A copy of the said Map is enclosed herewith and marked as **Annexure - R6**.

#### **CONSENT ISSUED BY POLLUTION CONTROL BOARD**

9. The petitioner has also alleged that the respondent has not obtained consent from the Pollution control Board, which is also not true. Subsequent to the issue of Environment Clearance for the project, the Karnataka state Pollution Control Board issued consent for establishment for the project, which has been renewed and is valid till date. Copies of the consent order dated 06.02.2013 and its

renewal dated 26.03.2021 are produced herewith marked **Annexure - R7& R8** respectively.

**PROJECT LAND BARREN ALLUVIAL LAND & NOT FOREST**

10. Petitioner has alleged that the project is being undertaken in a forest land, which again is not true. The land in question is barren alluvial land. Uttara Kannada District in Karnataka is industrially under developed due to its geographical conditions. State of Karnataka with a view to develop this region, decided to develop a port at Honnavar. The main objective for development of port at Honnavar is to provide basic infrastructure and to bring socio-economic changes in the region in a big way. As a step forward in this direction, Government of Karnataka entered into an agreement with the project proponent for developing Honnavar Port under PPP Mode. The land belonging to the Ports Department which is located in Tonka-Kasarkod Village, was identified for port development. The land leased for port development is an alluvial land where there is no flora and fauna.

11. In his report dated 20.11.2012 addressed to the Regional Commissioner, Belgaum Region, Belgaum, the Deputy Commissioner, Uttara Kannada District has stated that the said alluvial land is adjacent to revenue land in Survey No: 282A & 282B. This portion of the alluvial land is formed out of sand filling, which is highly unsuitable for agricultural cultivation or human habitation. In this alluvial land granted for port development by Government of Karnataka, as many as 30 fishermen were illegally utilizing this area for drying fishes. As their fishing activities were affecting development of port, the Deputy Commissioner, Karwar

removed illegal occupation of ports land following due process of law. However, as stated above, on humanitarian consideration, the respondent paid compensation/ex-gratia amount to all the displaced persons, who were evicted from their illegal occupation of alluvial land by the District Administration. The recipients of compensation amount/ex-gratia amount gave an agreement in writing to the project proponent that they would not involve themselves in any such activities that are detrimental for speedy execution of the proposed Honnavar Port.

12. The port is being developed on Public Private Partnership (PPP) Mode by the Lessee. The project proponent/respondent No.1 will construct barge / vessel loading facility. The capacity of the port is 4.9 MTPA. The proposed port will handle export and import related cargo - viz., granite, steel, coal, iron ore, edible oil, molasses, general cargo, etc. As per the lease agreement entered with the private company, there is no financial implication on the part of Government of Karnataka in the development of Honnavar Port. With the commencement of commercial operations at Honnavar Port, the economic activities are expected to increase enormously, which would bring in huge revenues to Karnataka Government and prosperity to the people of the region. The establishment of port would create great employment opportunities [skilled, semi-skilled and un-skilled] to the local youth. Under CSR initiatives, the project proponent would invest substantially in the area like establishment of schools, colleges, hospitals, community hall, health camps, etc., Rail/Road links will be improvised. The total scenario of the Uttara Kannada District in general and Honnavar in particular will undergo a sea change, bringing economic prosperity in the region.

13. A small section of the local population who is involved in fishing activities claim propriety of the entire marine zone and are obstructing construction of port at Honnavar as proposed by Government of Karnataka - which aims towards overall development of the citizens and inhabitants living in the area. With the development of Honnavar Port, the scope of fishing activities is expected to increase manifold. This is mainly because the project proponent has planned to provide a dedicated 24/7 channel for free movement of fishing vessels. By this fisherman can undertake fishing activities all through the year while ensuring their safety and security. It is expected that boat capsizing and human losses during fishing activity which is happening every season will not recur henceforth with the development of port, as the project proponent has commenced dredging activities in the navigation channel and creating a dedicated channel with 10 meters depth initially. Thereby the development of port is to a great added advantage for local fishermen in carrying out their traditional fishing activities. But quite unfortunately handful of local fishermen having deep personal interest and the disgruntled members of the petitioner who have been evicted from the land illegally occupied by them are trying to motivate innocent locals and create an awkward situation to the District Administration and contractor in the construction of port and other related activities.

#### **FALSE & MISLEADING STATEMENTS IN WRIT PETITION**

14. The Writ Petition deserves to be dismissed on the ground of false and misleading statements having been made by the

petitioner in the Writ Petition. The following are the false and misleading statements made by the petitioner in the Writ Petition:

- i. No proper study has been conducted before commencement of the project in question.
- ii. Without obtaining the Consent for Establishment from the Karnataka State Pollution Control Board (KSPCB for short), this respondent has commenced the construction of port.
- iii. The port has been constructed on the forest land without clearance under the Forest Conservation Act.
- iv. Construction of port in the beach declared as Blue Flag Beach.
- v. Construction of port on Coastal Regulation Zone - 1A (CRZ-1A) where the port activity is prohibited.
- vi. No clearance from National Board for Wild Life.
- vii. This Hon'ble Court has stayed all further construction activities in respect of Karwar Port expansion and directed to restore the beach.
- viii. Livelihood of the petitioner and its members is jeopardised.

15 ✓ The allegation that no proper study was conducted is false as is apparent from a complete study conducted by L&T Ramboll (Authorized agency of Ministry of Environment & Forest)(Annexure - R4) and only on being fully satisfied that the project in question

does not have any adverse effect on environment, ecology or the life and livelihood of the people, the environment clearance and other permissions were granted and the project was commenced. Further a large number of scientific studies have been carried out by eminent personalities and published in various journals/leading institutions and a list of published data referred/reviewed for the preparation of EIA Report for Barge/vessel loading facility at Honnavar is as shown in the EIA Report - February, 2012 and June 2012. A list of published data referred/reviewed is referred to in the said EIA Report itself.

16. The contention that consent for establishment was not obtained from the Pollution Control Board is also false as is apparent from the very consent for establishment issued by the Pollution Control Board.

17. The allegation that Port is being constructed on Forest land is also false. As stated herein above, the port is being constructed on alluvial land which had no tree growth and was not a forest land. Similarly, clearance from National Board for Wild Life is not at all needed since the land does not fall within any wild life area.

18. The allegation that the land (which is termed as beach in the Writ Petition) has been declared as Blue flag beach is also not true. Similarly, the construction of the port does not violate the CRZ regulation. Infact, the port activity is a permitted activity as per the CRZ notification.

19. The project in question does not at all affect or jeopardise the livelihood of fisherman whose cause the petitioner seeks to

espouse. As stated herein above, the project in question results in a dedicated navigation channel which will permit fisherman to undertake fishing activity throughout the year and will benefit them enormously. As stated earlier, before the project in question, the navigation channel which were used for the movement of fishing vessels could be used by fisherman only during high tide and because of accumulation of soil, mud and sand, etc., and many areas of the channel were not navigable for the fishing vessels. The project in question will, as stated herein above, create a dedicated for fishing. The project will benefit the fisherman enormously.

20. The respondent No.1 is a Special Purpose Vehicle incorporated under the provisions of the Companies Act, 1956 with the main object of carrying on the activities pertaining to project in question. The said SPV has been constituted by two private limited companies namely, M/s GVPR Engineers Limited and M/s North Canara Sea Ports. Honnavar Port is being developed on PPP model with private investment which is estimated at Rs.513 crores. The respondent has already made substantial investment towards construction of Honnavar Port. All statutory clearances and approvals from respective Government Department have been obtained by this respondent, which includes public hearing as stated in the forthcoming paragraphs in detail.

21. The Hon'ble Supreme Court has held in the case of **Dattataj Natuji Thaware-v-State of Maharashtra reported in 2005(1) SCC 590** that a petitioner in a PIL must come to court with clean heart, mind and objective. In the instant case, petitioner has suppressed whole lot of material facts and has also made false and misleading statements, as fully set out hereinabove.

22. In the light of the above background, this respondent controversy the averments and allegations made in the Writ Petition as under:

23. **Re-Para No.1:**

a. The allegation that the petitioner is a registered association comprising of fisher folks and resident of Kasarkod - Tonka village in Honnavar Taluk, living beside the bank of Sharavati river for several generation and dependent on fishing and fisheries related activities is not admitted to be true and correct. Petitioner is put to strict proof of the same. The averment that there are 4000 fisher folks directly dependent on fisheries and fishing activities and 3000 members of the fishing community depend on fish drying and trading on the beach in the project area is not admitted to be true and correct. Hardly, a handful of persons had encroached upon the alluvial which was a part of the project site and pursuant to the orders passed under the Public Premises Eviction Act, those persons have been ejected from area and the order has been upheld by this hon' led court. As stated hereinabove, this respondent has given them lumpsum ex-gratia amount. The further allegation that Annexure A is the coastal management plan is not true. Annexure A comprises of two pages and is a part of the Coastal Regulation Zone Notification 2011.

b. As admitted by the petitioner itself in the Writ Petition, this respondent has obtained all required governmental, administrative and statutory permissions, clearances and approvals for the project in question and then only has commenced the project in question.

At the cost of repetition, this respondent is setting out the details of all governmental, administrative and statutory permissions and approvals in the following tabular column for the easy reference of this Hon'ble Court:

Sl. No.	Clearances/Approvals obtained	Clearing Authority
1	Environment Clearance and CRZ Clearance. Issue Date: 21/09/2012	State Level Environment Impact Assessment Authority - Karnataka - vide its letter No. SEIAA: 22: IND:2011 dated 21/09/2012
2	Consent for establishment Issue Date: 06/02/2013	Karnataka State Pollution Control Board - vide its letter No. KSPCB/SEO (non-EIA)/Honnavar Port/EIA/2012-13/1381 dated 06/02/2013
3	Detailed Project Report Approval Issue Date: 26/03/2014	Government of Karnataka - vide its letter No. PWD/41/PSP/2013 dated 26/03/2014
4	Construction Plans & Designs - Technical Approval Issue Date: 30/04/2015	Director of Ports & IWD Department, Karwar -vide its letter No. PIWT-62/LND-II/2010 dated 30/04/2015
5	Break water plans/drawings approval Issue Date: 03/08/2015	Director of Ports & IWT Department, Karwar -vide its letter No. PIWT-73/DEV-I/2015 03/08/2015
6	Capital dredging plans/designs approval Issue Date:	Director of Ports & IWD Department, Karwar -vide its letter No. PIWT-71/DEV-I/2015 03/08/2015

	03/08/2015	
7	Energy approval for Installation of 1000KVA (1MVA) Issue Date: 26/10/2015	Hubli Electricity Supply Company Limited – vide its letter dated 26/10/2015
8	No Objection Certificate from Local Authority Issue Date: 26/03/2016	Gram Panchayat, Kasarkod, Honnavar Taluk, Uttar Kannada District – vide its letter dated 26/03/2016
9	Terminal Bay Construction approval. Issue Date: 14/07/2016	Karnataka Power Transmission Corporation Limited – vide its 65 <sup>th</sup> T.B. committee meeting letter no: KPTCL/SEE(Plg)/EE-Plg-N/KCO-96/90/F-9252/2016-17/4622-28 dated 14 <sup>th</sup> -07-2016.
10	Energy approval for Installation of 1000KVA (1MVA). Issue Date: 21/06/2016	Karnataka Power Transmission Corporation Limited – vide its OM No. BGKT/CEE/TRNS/CA/SEE(O)/A EE-5/16-17/4021-24, dated 21/06/2016
11	Issue of Notification 7(a) Issue Date: 08/07/2016	Central Board of Excise and Customs, Government of India, New Delhi – vide its notification No. 97/2016-Customs (N.T.) dated 08/07/2016
12	Extension of Environment Clearance and CRZ Clearance Issue Date: 01/07/2019	State Level Environment Impact Assessment Authority – Karnataka – vide its letter No. SEIAA: 22: IND:2011 dated: 01/07/2019
13	Extension for Consent for Establishment Issue Date: 26/02/2021	Karnataka State Pollution Control Board – vide its letter No. PCB 185 Infra 2020/5881, Dated: 26/03/2021

14	Renewal of Consent for Establishment by KSPCB dated 26.03.2021	Karnataka State Pollution Control Board vide its letter dated 26.03.2021
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c. The State Government has been regularly reviewing the progress of construction both physical and financial. The Government is constantly monitoring the progress of construction and trying to resolve any adverse situations coming in the way of speedy completion of the project. The State Government and the District Administration have been extending total support for port development.

d. Details of Fishing Villages, Fishing activities and Fish Landing Centres are provided in Section 4.8.4 of Final EIA Report.

e. Physical demarcation of HTL, LTL and delineation of CRZ setbacks for the project site were carried out by Centre for Earth Science Studies (CESS) (**Annexure - R5 above**). This centre is currently known in the name and style as "National Centre of Earth Science Studies" under the Ministry of Earth Sciences, Government of India. Based on the perusal of the CRZ Notification, 2011 and the HTL/LTL, survey outcome, following are the inferences arrived:

- Proposed site falls on the sandy beach near the river mouth;
- CRZ Setback lines indicate that the proposed barge/vessel loading site mostly falls within the CRZ I (B) (i.e., Are between LTL and HTL), CRZ (III) undeveloped rural area and CRZ IV (near shore waters and backwaters);

- Proposed location does not contain environmentally sensitive areas such as National Parks / Marine Parks, Sanctuaries, Wildlife Habitats, Corals / Coral Reefs. It also does not include breeding and sprawling grounds of fish and other marine lives, are of outstanding natural beauty/historically/heritage area, area rich in genetic diversity;

f. Based on perusal of Coastal Regulation Zone (CRZ) Notification, 2011 and Karnataka Coastal Zone Management Plan (CZMP), Proposed Honnavar barge/vessel loading is a permissible activity in CRZ as it requires waterfront and foreshore facilities.

g. The project layout superimposed on HTL, LTL and CRZ setbacks is given in the **Final EIA Report February 2012 and CESS report (Annexures – R4 & R5).**

h. With reference to above Approved CZMP, project area is falling within the CRZ I (B), CRZ III, CRZ IV (A&B). Further, Port and Port related activities are permitted as per the CRZ Notification, 2011. As per the above map, there are no Fish landing centres, fish breeding areas, Ecologically Sensitive Areas, Critical Vulnerable Coastal Areas (CVCA) and Mangrove areas and are not reported in the Port Developing Area.

24. **Re-Para No.2:**

a. The allegation that proposed construction of the port by the 1<sup>st</sup> respondent is on the eco-sensitive and blue flagged beach, situated

in Kasarkod, Honnavar and other beaches of Pavinkurva, Malukurva and Karki which are all adjacent and contiguous to each other and situated in Honnavar Taluk of Uttara Kannada District, without obtaining necessary consent from the Karnataka State Pollution Control Board are false. The further allegation that the said project is being undertaken on the basis of environmental clearance granted by the 6<sup>th</sup> respondent herein, without authority of law, knowing fully well that the above mentioned beach falls within the CRZ-I and as such no commercial activity can be carried on is false.

b. Respondent No.1 [M/s. Honnavar Port Private Limited] submitted Final EIA Report prepared by L&T – Ramboll Consulting Engineers Limited on behalf of the project proponents in February, 2012. For Development of Barge/vessel facility to handle 4.9 MTPA of cargo at Coastal Sand Spit, Kasarkod Tonka Village, Honnavar Taluk, Uttara Kannada District of M/s. Honnavar Port Private Limited, State Level Environment Impact Assessment Authority, Karnataka [Constituted by Ministry of Environment & Forests, Government of India] considered the Final EIA Report – February, 2012 for issue of Environmental/CRZ Clearance. The SEIAA, Karnataka examined the proposal submitted by the project proponent for grant of Environmental/CRZ Clearance in accordance with EIA Notification, 2006-07 on the basis of the mandatory documents enclosed with the application viz., the Application in Form1, EIA, EMP and the additional clarifications furnished in response to the observations of the SEAC, Karnataka. It was noted by the Authority that the Karnataka State Coastal Zone Management Authority had recommended the proposal for issue of Environmental/CRZ Clearance during the meeting held on 28.05.2012. State Level Environment Impact Assessment Authority [SEIAA] in its meeting

held on 06.07.2012 & 06.08.2012 accorded Environmental/CRZ Clearance to the project as per provisions of the EIA Notification No. S.O. 1533 dated 14th September, 2006 of Ministry of Environment & Forest, Government of India, subject to compliance of certain terms and conditions indicated therein. One of the conditions was that the Company shall comply with the recommendations made in the EIA/EMP/Risk assessment report/Modelling study etc., Further, all approach roads shall be black topped and internal roads and major haul roads shall be black topped or concreted and swept regularly with mechanical sweepers.

c. Blue Flag Beach: Blue Flag Certification area came to be Notified during the year 2020 and whereas the Honnavar Port Development was conceived and proposed for construction during the year 2010. Karnataka's Padubidri and Kasarkod beaches were recommended for the coveted tag based on the amenities available, cleanliness, safety, drinking water facilities, pollution-free atmosphere and generation of renewable energy. Blue Flag recognition is awarded by the Foundation for Environmental Education, which is an NGO in Denmark. A copy of the News Paper clipping dated 12.10.2020 regarding Karnataka's Padubidri Kasarkod beaches bag Blue Flag tag is produced herewith and marked as **Annexure - R9**. The port area is about 2.2 km away from the Blue Flag Certified location. The proposed construction of four lane road connectivity from NH-66 to Kasarkod side of Honnavar Port under Bharatmala Pariyojana by National Highways Authority of India does not fall within the specified limits of Blue Flag Certification area, as per the existing coordinates which are available with the Karnataka Forest Department/Tourism Department. The external boundary of the road connectivity proposal is away from the Blue Flag Beach

territorial limits. Further, it is submitted by this Respondent that none of the parameters governing Blue Flag Certification would be violated while executing the proposed project. A copy of the Blue Flag Territorial limits Map is produced herewith and marked as **Annexure - R10.**

d. It is submitted by this Respondent that "Blue Flag Certification" by an International NGO of Denmark is from the point of view of tourism promotion in various parts of the Country. The identification of location and marking of boundaries is not made on the basis of any statutory provisions, but whereas it is purely administrative and discretionary, based on suitability of the marine zone. The road connectivity proposals are considered by Infrastructure Development, Ports & Inland Water Transport Department along with Government of India [Ministry of Shipping and Ministry of Road Transport & Highways] under Bharatmala Pariyojana scheme. This road connectivity to ports and Ports Development are of national importance. They play a vital role in the economic development of the State. Whereas, the Blue Flag Certification matters are dealt in the Tourism Department with the object of promoting tourism. Before taking any decision in such matters, the balance of convenience and larger public interests should be given higher weightage. It is further submitted that inter-departmental co-ordination in such matters would help to administer such policy matters without any problem.

e. The Respondent has obtained consent for establishment and its renewal from the Karnataka State Pollution Control Board on 06.02.2013/26.03.2021 itself (Annexure - R7 & R8). According to the statutory approval granted by the Board, the consent for

establishment of port granted in accordance with law is co-terminus with the validity of the Environmental/CRZ Clearance and copy of which is produced as Annexure - H in writ petition. A copy of order dated 01.07.2019 extending the validity of Environmental clearance is produced herewith and marked as **Annexure - R11**.

f. The proposed construction of port at Honnavar - Kasarkod side as per PPP Mode by M/s. Honnavar Port Private Limited is as per approvals granted by statutory bodies and in accordance with Environmental/CRZ Clearance obtained from the SEIAA, Karnataka (Annexure - H and R12). The allegations made by the petitioner is hereby denied as false, misconceived and concocted.

25. **Re-Para No.3:**

a. The allegation in paragraph 3 of the writ petition that the project will lead to enormous ecological damage and destruction of flora and fauna and thereby the said beach will lose its pristine beauty in its natural form are hereby denied as false, misconceived and ill motivated.

b. The allegation made by the Petitioner that the said project will lead to enormous ecological damage and destruction of flora and fauna and thereby the said beach will lose its pristine beauty in its natural form are hereby denied as false, misconceived and ill motivated. There is no ecological damage or destruction of flora and fauna due to construction of proposed port at Honnavar. In this regard, a large number of scientific studies from eminent personalities and published in various journals/leading institutions. A list of published data referred/reviewed for the preparation of EIA

Report for Barge/vessel loading facility at Honnavar is as shown in the EIA Report – February, 2012 (**Annexure – R4** above).

c. Flora and fauna studies were conducted to assess the list of plants and animal species and their habitat in and around the port site. A detailed survey of flora and fauna of proposed development of Honnavar Barge/Vessel loading facility and its environs extending up to a radius of 10 kms was carried out under the supervision and guidance of Prof. K.B. Reddy, Professor of Environmental Biology (S.G.H.R & M.C.M.R. College of Post Graduate Studies, Mall Reddy Nagar, Guntur) and a senior consultant for flora, fauna and ecology for several major irrigation and hydroelectric projects and his team.

d. Marine baseline and biodiversity surveys were conducted by the department of Meteorology & Oceanography, Andhra University was started in 1948 and over the years it contributed immensely for the development of newly emerging branches of sciences under the stewardship of Late Prof. R. Ramanandham, Prof. V. P. Subhramanyam and Prof. P Koteshwaram etc. The department has been identified for DST – FIST sponsored department in strengthening the teaching and research in the fields of Meteorology and Physical Oceanography.

e. None of the Flora and Fauna species observed from the core area / project site belongs to the Rare/Endangered/Endemic/Threatened category.

f. Detailed studies were conducted to assess the possible impact of the proposed project area and suitable mitigation measures are also provided in the Final EIA report. Presently this respondent in

compliance to accorded Environmental Clearance, doing continuous monitoring at project area and regularly submitting the reports to competent authority. A copy of the Environment Monitoring Reports [July, 2019 to February, 2021] submitted to SEIAA acknowledgment is produced herewith and marked as **Annexure - R12.**

26. **Re-Para No.4:**

a. The allegation that the said construction would affect around 12,600 people engaged in fishing activity carrying on their traditional / ancestral fishing avocation with the help of around 1415 different kinds of boats and that they would lose their livelihood is false apart from being misleading statement.

b. Details of fishing villages, fishing activities and fish landing centres are provided in Section 4.8.4 of Final EIA Report. The development of port does not obstruct any fishing activity as alleged. Instead, the project proponent will be providing a separate 24\*7 exclusive channel for fishing/vessel movements. This dedicated channel will be earmarked with the help of floating marker buoys which will be helpful to the fisherman during barge/vessel movement to the berths, for their fishing activities. This Respondent has given an undertaking to the Fisheries Department through letter dated 26-03-2012 clearly mentioning about 24\*7 separate navigation channel to fishermen's, through this channel. The local fishermen who are dependent upon this fishing activity for their livelihood are greatly benefited, using this dedicated channel, which ensures their safety and security. Copy of

the letter of undertaking dated 26.03.2012 is produced herewith and marked as **Annexure - R13**.

c. Further, steps are being taken for creating awareness to fishermen about the barge/vessel movement:

- Educating the fishermen about the orientation of approach channel;
- Regular interactions will be initiated with the fishing community;
- Conflicts if any with fishing community will be amicably resolved in all cases;
- No discharge of waste water/waste from the Barges/vessel calling at Honnavar Barge loading facility will be permitted into the area. There will not be any discharge in to the sea from the proposed barge/vessel loading facility;

27. **Re-Para No.5:**

a. The allegations in this paragraph that the said construction is being carried out without obtaining the necessary consent from the 7<sup>th</sup> respondent and also in utter violation of the terms and conditions of Lease Agreements at Annexure-B and D, which have been transferred to the respondent no.1 herein vide Annexure-E are false and misleading. The allegation that the petitioner association having knocked the doors of almost all the respondents by way of various representations, has approached this Hon'ble Court for redressal of their grievance, as there is flagrant violation of various provisions of the Constitution of India, such as Article-19(1)(d), 19(1)(g), 21, 48(a), 51-A(g), 300-A etc., is false and misleading. It

is false to state that the said construction not only affects the life of the people in and around the above mentioned beach, but also affects the citizens of the neighboring taluka, such as Bhatkal, Karwar etc. The allegation that the permanent stoppage of the said project by way of an order from this Hon'ble Court is extremely essential to avoid catastrophic consequences is false and misleading apart from being baseless.

b. This Respondent has obtained necessary approval from Respondent No. 7 - Karnataka State Pollution Control Board in accordance with law, before the commencement of work at the project site. Further, this Respondent has also adhered to all the terms and conditions of lease agreements without any violation of any of the conditions contained in the lease agreement. Further, the local people will be given preference in employment in the construction of port related activities, based on their educational/professional qualifications, skill set, etc., The socio-economic scenario of the entire region will change with the commissioning of Honnavar Port and will bring lot of infrastructural developments, such as schools, colleges, road/rail connectivity, boosting economic activity, etc.,

- Employment potential during construction phase and operational phase is estimated about 500 and 50 persons respectively.
- Employment opportunities to the local people for skilled, semi - skilled and unskilled work force during the construction and operation phases.
- Increase in education and health facilities in the project area.

- Significant benefits to the local people and to the region as a whole and positive impact on the socio-economic conditions of the region
- Proposed dedicated rail/road corridor will provide good connectivity and also offers an efficient and cost-effective supply chain/value proposition to the local Importers and exporters in the state of Karnataka and neighboring states.

c. This Respondent hereby deny all other allegations/averments made by the petitioner as baseless, illegal and false.

**28. Re-Para No.6:**

The allegation that there is no private interest involved in filing the present petition and it is filed in the larger interest of fisher folks, fisher community and general public at large residing in and around the above villages in Honnavar Taluka and other neighboring Talukas, such as Karwar, Bhatkal etc., is false apart from being misleading statement. All the signatories of several Memoranda addressed to various authorities of Government and who are Members of the Petitioner Association are directly interested in this matter is false. They are professionally interested in carrying out their fishing activities and prima facie are having personal interests in the outcome of this petition. Further many of them were illegal squatters on a portion of the land where the port is being built and they were evicted in accordance with law. Hence they have a grouse against this respondent. Moreover, if the project is abandoned, they could again illegally occupy the land which had been illegally occupied by them earlier. Hence it is reiterated that this petition does not fall in the category of 'PIL', as it is not

intended to serve larger public interests and whereas it confines to the private interests of several individuals who are members of the Petitioner-Association.

29. **Re-Para No.7:**

The averment made in this paragraph regarding leased agreement dated 07.04.2010 between Director of Ports and M/s. North Canara Sea Ports - GVPREL Consortium is a matter of record and hence are not traversed.

30. **Re-Para No.8:**

The averments made in this paragraph are matter of record and hence are not traversed. The Government Order dated 22.09.2010 is wrongly mentioned as 22.09.2020.

31. **Re-Para No.9:**

The averments made in this paragraph are matter of record and hence are not traversed.

32. **Re-Para No.10:**

The CRZ Clearance alleged to have been issued on 24.11.2011 by Ministry of Environment and Forests (IA-III Division), Government of India in favour of M/s. Master Ship Yard Private Limited containing the CRZ Clearance does not relate to the proposed Honnavar Port. It has no relevance, whatsoever, in respect of Honnavar Port. The petitioner is trying to misquote a clearance

which is not related to the project in question with an intention of misleading this Hon'ble Court and hence the Writ Petition is liable to be dismissed.

33. **Re-Para No.11:**

The petitioner is misleading this Hon'ble Court by making several contradictory statements in this Writ Petition. On the one hand, in para 5 of the Writ Petition it alleges that this Respondent has not obtained statutory clearance from the Respondent No.7 as required under law for commencement of project work. And in this para (para 11) it states with the support of documents that this Respondent has obtained statutory clearance as required under law from the Respondent No.7, namely, consent for establishment, which is co-terminus with the validity of Environmental / CRZ Clearance. As stated earlier the consent of pollution control board has been renewed and is valid and subsisting.

34. **Re-Para No.12**

The petitioner has alleged that this Respondent has not complied with statutory provisions contained in Water and Air Act. The petitioner has brought attention of this Hon'ble Court to letter dated 20.06.2018 addressed by the Respondent No. 7 to this Respondent about non-compliance of statutory provisions. The above allegations are wholly false and misleading. This Respondent in its letter dated 7<sup>th</sup> February 2019 addressed to Respondent No.7 (copy enclosed), stated that this Respondent has completed the detailed design engineering and obtained necessary approvals for the

development of barge /vessel loading facility. It was submitted that the company is initiating construction activities at site w.e.f. 01.03.2019 and that the Company will adhere to all statutory conditions and other stipulations as per various statutes, in strict adherence to law. Further, w.e.f. July, 2019, this Respondent has been filing reports to the concerned authority as required under "Water" and "Air" Acts of 1974 and 1981, respectively. A copy of the letter dt: 07.02.2019 addressed to the Member Secretary, SEIAA, Bangalore by this respondent is produced herewith and marked as **Annexure - R14**.

35. **Re-Para No.13:**

The letter dated 19.02.2020 addressed to Shri. Vivan Fernandes, Tonka by Pollution Control Board is a misleading one. Apparently, sri. Vivian Fernandes had asked the pollution control board as to whether this respondent has obtained any consent for expansion of the project when no expansion of the project is being undertaken by this respondent. Therefore the pollution control board has written the letter stating that no permission/consent has been obtained by this respondent for expansion of the project. The project is primarily under construction and it is yet to be completed. As such, there is no expansion of the project as alleged. Such wrong/misleading questions are posed to authorities with the malafide intention. Contradictory statements made by respective authorities in this regard are not legally tenable.

36. **Re-Para No.14 to 18:**

a. The averments made in these paragraphs regarding the alleged representations made by the petitioner are not within the knowledge of this respondent and are not admitted. Petitioner is put to strict proof of the same. The allegations made in those alleged representations, copies of which were produced along with the Writ Petition are denied.

b. The alluvial land was granted on lease to this respondent for a period of 30 years for developing Honnavar Port on PPP model. The reports submitted by the Tahsildar, Honnavar Taluk and the Deputy Commissioner, Uttara Kannada District, Karwar to the Regional Commissioner, Belgaum clearly bring out the fact that the land granted on lease to this respondent is an alluvial land adjacent to revenue land in Survey No. 282A and 282B situated at Kasarkod-Tonka Village, Honnavar Taluk. This Respondent hereby denies the allegation that by the construction of a port at Honnavar, the local inhabitants are being displaced. In fact, there is no human habitation in the project site. As already stated above, certain illegal fishermen numbering about 30 were illegally utilizing a portion of this alluvial land for purposes of drying fishes and they were evicted from such illegal occupation in accordance with law. Their removal in accordance with law by the District Administration was upheld by the learned single Judge and the Division Bench of this Hon'ble Court, Dharwad Bench vide order dated 10.02.2016 in W.P.No.100908-934/2016(GM-Res) and order dated 20.09.2016 in Writ Appeal No. 100303/2016 & 101144-101169/2016 (GM-RES) (Annexure - R1 and R2 above). Further, this Respondent arranged to pay ex-gratia amount to 30 fishermen, purely on humanitarian grounds. The ex-gratia payments were gracefully accepted by all the 30 fishermen who were displaced from illegal occupation of the

alluvial land - granted to this respondent for developing port and also gave an undertaking that they would not engage themselves in any such activity which is detrimental to the development of port. This Respondent strongly submits that the allegations made in the representation that the development of project would affect their livelihood are not true. As a matter of fact, the scope of fishing activities is expected to increase manifolds with the dredging activity being undertaken by this respondent and creation of a separate navigational channel for the benefit of fishermen and movement of fishing vessels. The District Administration has granted an alternative five acres of land to the displaced fishermen for drying fishes. The petitioner-association is trying to mislead the statutory authorities by alleging incorrect and false information with an intention to mislead and confuse the authorities and this Hon'ble Court:

**A. Emergence of new facts post the grant of EC:**

(i). The information provided by the Petitioner-Association is incorrect and baseless. There is no forest land in the project area. The Respondent has not submitted any incorrect information to the authorities before obtaining Environmental Clearance. The allegations made in this regard are totally misconceived, false and baseless.

**B. Details regarding road and rail connectivity, and the requirement of forest land for the same have not been provided in 2012 and 2019:**

(i). The Government of Karnataka entered into an agreement with this respondent for construction of Honnavar Port in 2010. For construction of any port, it is obligatory on the part of the LESSOR

to provide an approach road to the project area. Having appreciated this essential requirement, the State Government proposed to the Government of India, Ministry of Shipping to include four lane road connectivity proposals from Kasarkod side of Honnavar Port to NH-66 under Bharatmala Pariyojana, to be executed by the National Highways Authority of India. The NHAI authorities after inspection of the entire area and keeping in view larger interests of the general public and also safe movement of large trucks/trailers finalised a most suitable road alignment. While drawing-up a final sketch indicating the road alignment, it was noticed that a small extent of 0.76ha bearing survey no's 233 & 237 of forest land was required to be diverted. This does not fall within the project area of this respondent. For achieving this diversion, it was considered necessary to obtain forest clearance. Since, this road connectivity proposal was made by Government of Karnataka, the Nodal Officer for the project i.e., the Assistant Executive Engineer, Ports Sub-Division, Honnavar submitted online application to the Forest authorities seeking forest clearance in respect of diversion of 0.76 ha bearing survey no's 233 & 237 of forest land required for four lane road connectivity proposals. The forest clearance is awaited and only thereafter that portion of the road will be completed. Without appreciating this factual position, the petitioner-association is trying to submit wrong information to the authorities. The petitioner-Association has failed to appreciate the fact the four lane road connectivity proposals were conceptualised in 2018. Before proceeding to construct four lane road connectivity proposals under Bharatmala Pariyojana, the NHAI authorities require forest clearance for diversion of 0.76 ha bearing survey nos. 233 & 237 of forest land. Therefore, steps have been taken by Assistant Executive Engineer, Ports Sub division, Honnavar to

obtain necessary forest clearance as per Forest (Conservation) Act, 1980.

(ii). In 80th and 81st Meeting of the SEAC, certain observations were made regarding grant of Environmental Clearance. To dispel the doubts/apprehensions expressed in the said meetings, this respondent submitted necessary clarifications - prepared by L&T-RAMBOLL Consulting Engineers Limited [project consultants of M/s. HPPL on EIA for Honnavar Barge / Vessel loading facility. A copy of the said report providing clarification to SEAC by the project consultant in June 2012 is produced herewith and marked as **Annexure - R15**. In respect of project area, the correspondence of the revenue administration clearly indicate that the lands granted for port development is an alluvial land which is adjacent to revenue lands in Survey No.282A & 282B of Kasarkod-Tonka Village, Honnavar Taluk. The studies conducted by the Fisheries College, Mangalore affiliated to the Animal Husbandry, Veterinary and Fisheries University, Bidar clearly show that there is no impact on fisheries due to dredging activity, no rare or endangered species are found in the area, no impact on flora and fauna, etc., as set out in the EIA reports (Annexure - R4 & R15).

**C. Glaring defects in the application form submitted by the project proponent leading to wrongful grant of EC**

(i). The allegations made by the Petitioner-Association are totally baseless and false. The status of alluvial land based on revenue records/reports of district administration, traffic impact on the landward side from the project, hinterland of Honnavar Barge/Vessel loading facility, existing hinterland connections and road/rail network, existing traffic scenario, projected traffic,

transportation of cargo to the hinterland, ambient air quality model study, impact of the port project on the river life habituated island, existing environmental and socio-economic status, social impact assessment, social impacts during operational phase, etc., were all taken into consideration by the authority, before granting Environmental Clearance. The project proponent submitted all reports, information and documents which were considered to be vital to the authority before seeking Environmental Clearance.

(ii). The allegations made that the traditional fishing, fish drying activities and sensitive ecology were not considered during the appraisal process are hereby denied as totally false. All information in this regard are captured in para 4.8.4 of the EIA Report of February 2012. Details of fishing villages and fish landing centres are provided to the authority for grant of Environmental Clearance. As per the information already provided, there are no major fishing zones in the area. The fish landing centres and fishing settlements in the area are Honnavar 1.0 km SE and Manki, 11 km SE and they do not fall within the project area. The authority has taken into consideration all relevant information pertaining to population details of fishing settlements in Honnavar Taluk, annual fish catch statistics, numbers & types of boats and nets in Honnavar fishing harbour, etc., before granting EC. EAIA studies were conducted as per the stipulated norms in accordance with Terms of Reference by SEAC, Karnataka.

**D. Disparity in project costs and total and area requirement in various applications:**

(i). The petitioner-Association is making certain vague and misleading applications without the support of any valid documents or letters. The port is being developed by this respondent on the alluvial land granted by the State Government on a lease period of 30 years. There is no question of submitting any false information to the authority for grant of EC, as it is purely on the basis of Government Orders, issued in this regard. The allegations made by the Petitioner-Association are therefore mischievous, illegal and contrary to the factual position. Before considering any such requests, the authority is duty bound to seek clarity from this respondent, as the Environmental clearance has been granted after following due procedures and obtaining necessary reports/documents, etc.

37. **Re-Para No.19:**

The allegation that the petitioner being left with no other alternative and efficacious remedy, is complaining of violation of Articles 19(1)d), 19(1)(g), 21, 48-A, 51-A(g) & 300-A of the Constitution of India, and has approached this Hon'ble Court for redressal of its grievance before this, by filing this Writ Petition, in the form of PIL is false.

38. **Re-Para No.20:**

It is false to stated that the reliefs sought for in this Writ Petition can be considered and granted only by this Hon'ble Court in exercise of its writ jurisdiction under Article-226 of the Constitution of India and as such cannot be urged before any other Forum, Tribunal.

39. **Re-Para No.21:**

a. The allegations that the above said construction work entrusted to the 1<sup>st</sup> respondent would lead to serious damage to the Flora and Fauna and will have a serious impact on the nature and ecology because the same is being undertaken at a place where there is confluence of Arabian sea and the Sharavati River, at the places mentioned above are false and misleading. Further allegations that it will lead to destruction of water bodies and impair its reproduction permanently and will lead to pollution of water and will have harmful effects on the drinking water that is being supplied to the neighboring villages is false. It is submitted that none of the flora and fauna species observed from the core area / project site belongs to Rare /Endangered / Endemic / Threatened category.

b. As already stated above the Flora and fauna studies were conducted to assess the list of plants and animal species and their habitat in and around the port site (Annexure - R4). A detailed survey of flora and fauna of proposed development of Honnavar Barge/Vessel loading facility and its environs extending up to a radius of 10 kms was carried out under the supervision and guidance of Prof. K.B. Reddy, Professor of Environmental Biology (S.G.H.R & M.C.M.R. College of Post Graduate Studies, Mall Reddy Nagar, Guntur) and a senior consultant for flora, fauna and ecology for several major irrigation and hydroelectric projects and his team.

c. It is submitted that the Marine baseline and biodiversity surveys were conducted by the department of Meteorology & Oceanography, Andhra University which department was started in 1948 and over

the years it has contributed immensely for the development of newly emerging branches of sciences under the stewardship of Late Prof. R. Ramanandham, Prof. V. P. Subhramanyam and Prof. P. Koteshwaram etc. The department has been identified for DST - FIST sponsored department in strengthening the teaching and research in the fields of Meteorology and Physical Oceanography. Detailed studies were conducted to assess the possible impact of the proposed project area and suitable mitigation measures are also provided in the Final EIA report. Presently this respondent in compliance to accorded Environmental Clearance, doing continuous monitoring at project area and regularly submitting the reports to competent authority.

40. **Re-Para No.22:**

a. The allegation that the pristine beauty in its natural form of the above mentioned beaches/place would be completely destroyed in the event the above said construction is allowed to continue is false. It is submitted that the Flora and fauna studies were conducted to assess the list of plants and animal species and their habitat in and around the port site. A detailed survey of flora and fauna of proposed development of Honnavar Barge/Vessel loading facility and its environs extending up to a radius of 10 kms., was carried out under the supervision and guidance of Prof. K.B. Reddy, Professor of Environmental Biology (S.G.H.R 7 M.C.M.R. College of Post Graduate Studies, Mall Reddy Nagar, Guntur) and a senior consultant for flora, fauna and ecology for several major irrigation and hydroelectric projects and his team. None of the flora and fauna species observed from the core area / project site belongs to Rare / Endangered / Endemic / Threatened category would be affected.

As stated above this Respondent is not disturbing any beach, as the proposed port spot is about 3 km away from the said Eco beach and walking track. The petitioner only with an intention of misleading this Hon'ble Court has produced certain photographs which do not depict true facts and which do not have any relevance to this case.

41. **Re-Para No.23:**

As regards the averments made in this paragraph, it is submitted that the Karnataka State Coastal Zone Management Authority [KSCZMA for short] scrutinized the Honnavar Port Development proposal along with road/rail corridor. Upon examination of the proposal, the KSCZMA has recommended the proposal for issue of Environmental/CRZ Clearance during the meeting held on 28.05.2012 to the SEIAA. Port activities are permitted activities in CRZ-I. The allegations made against this Respondent that such port activities are forbidden in CRZ-I is not correct and an attempt is being made by the Petitioner to mislead this Hon'ble Court by making such incorrect and illegal statements. As regards depiction of Malukurva Village in Map No.KA 25 [Annexure-R6], it is for the Survey of India to indicate all such locations in the approved Maps. The explanation given by the petitioner in this para regarding the map and the contents of the same are denied.

42. **Re-Para No.24:**

The allegation that the above said construction would lead to violation of Article 19(1)(g) of Constitution of India which deals with right of all the citizens to practice any profession or to carry on any occupation, trade or business is false. Further allegation that as a result of the said construction activity, Fishermen will not be able to

carry on the fishing activity as they have been using the shore of the Arabian Sea / Sharavathi River to park their Boats, Dingies, Trawalers etc., which will be stopped as a result of this expansion is false. The allegation that their livelihood which entirely depends on fishing activity will be forcibly snatched from them leading to the violation of Article 21 of the Constitution of India is false. The allegation that the fishermen earn their livelihood by selling the fish, which is caught by the fishermen in the said Beaches, and as such, even their daily bread would be taken away is false. The allegation that movement of huge barge (loading vessel) in the sea will be a severe blow to all the fishermen engaged in fishing activity through mechanized boats is false. It is false to state that the Fishermen are by avocation and tradition carrying on the activity of fishing since time immemorial for several generations and by the said construction project they would be jobless and will be reduced to the state of penury. As already stated above details of fishing villages, fishing activities and fish landing centres are provided in Section 4.8.4 of Final EIA Report. The development of port does not obstruct any fishing activity as alleged. Instead, this respondent will be providing a separate 24 X 7 exclusive channel for fishing/vessel movements. This dedicated channel will be earmarked with the help of floating marker buoys which will be helpful to the fisherman during barge/vessel movement to the berths, for their fishing activities. This Respondent has given an undertaking to the Fisheries Department through letter dated 26.03.2012 (Annexure - R13) clearly mentioning about 24\*7 separate navigation channel to fishermens. Through this channel, the local fishermen who are dependent upon this fishing activity for their livelihood are greatly benefited, using this dedicated Channel. Further with the establishment of Port, lot of employment potential

[skilled, semi-skilled and un-skilled] is going to be created in this part of Western Ghats. The allegations made against this project that it would affect livelihood of many fishermen are hereby denied as totally false. The opportunities for better fishing activity in this area would bound to increase due to the formation of a separate 24 X 7 dedicated channel and the fishermen would also be in a position to engage themselves in deep sea fishing.

43. **Re-Para No.25:**

The allegations made in this paragraph are false apart from being misleading statement. It is false to state that in the letter dated 25.02.2020 addressed to the President of the Belkonda Fisheries Co-operative Society Limited, Honnavar by the Assistant Director of Fisheries, Honnavar has mentioned that the fishermen would lose their livelihood with the execution of the project. In the said letter Assistant Director of Fisheries, Honnavar no where mentions anything about the fishermen losing their livelihood due to the execution of the project.

44. **Re-Para No.26:**

It is false to state that this project would cause injury to the local fishermen and violates their fundamental rights under Articles 14 and 21 of Constitution. On the contrary, the local fishermen are going to be benefitted in a big way. With the execution of the proposed project, the scope of fishing would increase manifolds, due to dredging activity being undertaken by this respondent by providing a dedicated navigational channel and the construction of breakwaters would also help the fishermen to undertake deep sea

fishing activity throughout the year. Further, the facility that is going to be created by this Respondent would be helpful to other fishermen belonging to neighboring areas as well. It would further increase fishing market and improve their business activities due to arrival of huge quantities of fishes that is resulting in the area in view of better navigational channel. None of their rights are going to be jeopardised, as alleged. Instead, they are put to a great advantage by increasing their volume of business and more profits. The decisions referred to in this paragraph are of no relevance to the facts of the instant case. The right of fishermen to take fish is in no way violated by the project. The decisions referred to in this para have no application to the facts of the case.

45. **Re-Para No.27:**

As regards the allegations made in this paragraph, it is submitted that any such infrastructural development projects would certainly have certain inherent advantages and disadvantages. From the point of view of economic development, removal of un-employment, providing of better educational facilities, development of road/rail connections, establishment of Hospitals and such other socio-economic activities in the region, construction of such ports are highly essential, keeping larger public interests in view. While doing so, certainly it would partially affect certain time immemorial facilities being traditionally enjoyed by locals, which are inevitable. The apprehensions that as a result of the said project, there would be harmful effects on the health of the people, etc., are not true and untenable. The main commodities which are proposed to be handled with the commissioning of the Honnavar Port are coal, iron ore, edible oil and general cargo. None of these commodities would

cause such dangerous diseases as alleged by the petitioner. Therefore, larger public interests outweigh certain trivial issues affecting a small section of the society. In this view of the matter, establishment of a port is highly essential and hence the allegations of the petitioner to the contrary are vehemently denied. In fact the Hon'ble Supreme Court has repeatedly held that balance has to be struck between environment and developmental activities and that principle of sustainable development is required to be adhered to and that right to development is a component of Art. 21 (See 2004(9) SCC 362).

46. **Re-Para No.28:**

The project is in public interest and is being implemented in compliance with the permissions and clearances. Article 21 is not in any way violated by the implementation of the project in question. The decision referred to in this para has no application to the facts of the case.

47. **Re-Para No.29:**

Since there are no monument or place or objects of artistic or historic interest, (declared by or under law made by Parliament) to be of National Importance in or near the project in question, the question of alleged violation of Article 49 of Constitution does not arise and hence all the allegations of the petitioner are denied. Article 48A is not in any way violated by the project.

48. **Re-Para No.30:**

Since the project in question is not affecting any of the natural course namely forests, lakes, rivers or wildlife, the question of alleged violation of Article 51-A(g) of Constitution does not arise and hence all the allegations of the petitioner are denied. No destruction of environment occurs as a result of the project.

49. **Re-Para No.31:**

The decision referred to in this paragraph has no application to the facts of the present case. It is false to state that because of the project in question the aesthetic use and the pristine glory of the natural resources, the environment and the ecosystems would be eroded for private, commercial or any other use.

50. **Re-Para No.32:**

a. The environmental consent granted for the project has not expired as alleged or otherwise. The clarifications with regard the period of validity of Environmental Clearance has been stated in Notification bearing S.O. 2944 EC dated: 14<sup>th</sup> September, 2016 issued by the Ministry of Environment, Forest and Climate Change. Paragraph 9 relating to Validity of Environment Clearance (EC), reads as under:-

*"9. Validity of Environmental Clearance (EC):*

*(i) The "Validity of Environmental Clearance" is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to*

have been granted under sub- paragraph (iii) of paragraph 8, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects [item 1(c) of the Schedule], project life as estimated by the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and seven years in the case of all other projects and activities.

Provided that this period of validity with respect to sub-paragraphs (i) and (ii) above may be extended by the regulatory authority concerned by a maximum period of three years if an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form I, and Supplementary Form IA, for Construction projects or activities (item 8 of the Schedule)."

g. The above said paragraph of the Notification dated Sept 14, 2016 clarifies that validity of environment clearance is seven years and shall be extended by a maximum of three more years. A copy of the Notification dated 14.09.2016 published in the Official Gazette is produced herewith and marked as **Annexure - R16**. It is submitted that as an abundant caution, this respondent has obtained the renewal of consent for establishment from the 7th respondent KSPCB vide order dated 26.03.2021 (Annexure - R8) though the same was not at all required to be obtained since the consent for establishment issued earlier is co-terminus with the

environmental clearance. This Respondent has obtained all statutory clearances and approvals from the respective authorities of Government, in accordance with law. This Respondent is governed by the terms and conditions of lease agreement. The actual port construction activities are in progress and that the CFO will be applied immediately upon completion of the project. Only with the consent, commercial operations would be started. The allegations made in this regard are highly pre-mature and without understanding the factual position.

51. **Re-Para No.33:**

The allegations made in this paragraph that there is non-compliance of the provisions contained in "Water" and "Air" Acts by this respondent are false and baseless. As per the statutory requirements, this Respondent has already obtained Consent for Establishment from the concerned statutory authorities. The project is still in the construction stage and the operation of the port has not yet commenced. The progress of construction was adversely affected in 2020 due to COVID-19 lockdown period.

52. **Re-Para No.34:**

The allegation made in this para denied. A perusal of the letter of pollution control board makes it clear that Shri. Vivan Fernandes had sought information from the KSPCB regarding expansion of the proposed project. There is no expansion of the project. Prima facie, it is a deliberate attempt to mislead the authorities by such persons

having their vested interests against the project. Such correspondence has also been made a part of the petition, with a view to confuse the position and mislead this Hon'ble Court. This Respondent strongly opposes such ill motivated pleadings of the petitioner, which are obviously directed to mislead this Hon'ble Court.

53. **Re-Para No.35:**

The allegations made in this paragraph that this respondent has not obtained necessary valid consent for the construction are false and baseless. This Respondent has already obtained Consent for Establishment from the concerned statutory authorities including the 7<sup>th</sup> respondent KSPCB.

54. **Re-Para No.36:**

The allegations made in this paragraph are misconceived and baseless. The Karnataka State Coastal Zone Management Authority [KSCZMA] scrutinized the Honnavar port Development proposal along with road / rail corridor. For construction of any port, it is necessary to provide suitable road connectivity. The existing road connectivity from Tonka Village to the project site was not suitable, as port development activity greatly involved movement of large number of trucks/trailers carrying construction equipment, materials, large machineries, etc., This matter was brought to the notice of Government, as usage of existing rural road passing through Tonka village was found to be unsafe from the safety point of local Villagers and school going children. It was in this context, with the advice and support of Government and District

Administration, an existing road alongside the beach was improved, so that until the construction of four lane road connectivity proposal from Kasarkod side of Honnavar Port to National Highway No.66, as proposed by State Government, under Bharatmala Pariyojana by NHAI was completed, the temporary road is made use of for the port development activities. The temporary road will be operational until the construction of four lane road connectivity as proposed by the State Government. No such major activities could be undertaken without the advice and support of Government in an unauthorised manner. The entire cost of construction of temporary road by way of improvement of an existing road link alongside the beach is being met by this respondent which is an additional burden on this respondent which is not part of the estimation of the project. Further, in letter No.PWD 78 PSP 2019, dated 11.12.2019 addressed to the Deputy Commissioner, Uttara Kannada District, Karwar, directions were issued by Government to remove the illegal encroachments in the land belonging to the Ports Department alongside the Kasarkod beach up to the project site area, so as to enable the movement of vehicles for construction of breakwaters. A copy of the letter dated 11.12.2019 is produced herewith and marked as **Annexure - R17**.

55. **Re-Para No.37:**

As regards the averments made in this paragraph, it is submitted that four lane Road Connectivity proposals from Kasarkod side of Honnavar Port to National Highway No.66 under Bharathmala Pariyojana through the NHAI has been undertaken on the basis of recommendations made by the State Government. The Assistant Executive Engineer, Ports Sub-Division, Honnavar, who is the Nodal

Officer, has made an application online to the Forest Department, seeking forest clearance in respect of diversion of 0.76 ha of forest land for the proposed four lane road connectivity. The authorities of the NHAI, after inspection of the entire road link for undertaking the proposed four lane road connectivity proposals, has suggested a most suitable road alignment, keeping in view the convenience of the local people and suitability of road construction. State Government and NHAI have signed necessary bipartite agreements for execution of the proposed road connectivity proposals. The proposals involve diversion of 0.76 ha bearing survey no's 233 & 237 of forest land, which is a small extent and first stage approval has been initiated by the designated Nodal Officer viz., the Assistant Executive Engineer, Ports Sub-Division, Honnavar has submitted to the Forest Department, seeking forest clearance in respect of diversion of 0.76 ha. bearing survey no's 233 & 237 of forest land. The said road does fall within the project area.

56. **Re-Para No.38:**

The allegation of the petitioner that the port is developed in the forest land is false. Honnavar Port is being developed on an alluvial land where there is no forest area. Therefore, the question of obtaining forest clearance in terms of Forest (Conservation) Act, 1980 does not arise. However, as per the terms of lease agreement, it was obligatory on the part of LESSOR [Government of Karnataka] to provide suitable approach road from National Highway No.66 to project area. State Government, therefore, recommended to Government of India, Ministry of Shipping to include four lane road connectivity proposals from Kasarkod side of Honnavar Port to NH-66. This proposal was accepted and the

Ministry of Road Transport and National Highways included the project for execution through NHA under Bharatmala Pariyojana. While finalising the road alignment most suitable for construction, keeping in view the convenience of local inhabitants and safe movement of heavy vehicles passing through the NH-66 to project area, it was found by the NHA authorities that there is a small diversion of 0.76 ha., of forest land while making the road connectivity. The whole project proposed by the Karnataka Government and recommended for execution under Bharatmala Pariyojana has been cleared for execution. Bipartite/tripartite agreements have also been signed by respective authorities. In pursuit of this proposal, the designated Nodal Officer viz., the Assistant Executive Engineer, Ports Sub-Division, Honnavar has submitted the proposals online to the Forest Department, seeking forest clearance in respect of diversion of 0.76 ha. bearing survey no's 233 & 237 of forest land, which is required for completion of road connectivity proposals under Bharatmala Pariyojana by NHA. Further, the State Government has made required budgetary provisions in the current State's Budget for the FY 2021-22. As stated earlier the said road does not fall within the project area.

57. **Re-Para No.39:**

The allegation that the respondent No.4 in connivance with and for the benefit of respondent No.1 indulged in the illegal act of changing the coast line, which requires to be enquired into is false and misleading. The allegations made against District authorities are baseless, as the Lessee is developing the port purely on PPP Mode and the ownership of the entire project area remains with Government in Revenue/Ports Department. The entire

infrastructure would remain with State Government on as is and where is condition after the completion of lease period. The complainant Shri.Prakash Mesta is having vested interest against the proposed project and he is trying to mislead all Governmental Departments and also the Survey of India, by making false allegations of nepotism and partisanship. There is no violation of his fundamental right and should there be any violation of civil rights, he should agitate such issues in appropriate forum. All allegations made against this respondent and other respondents are totally false, misconceived and not legally tenable.

58. **Re-Para No.40:**

The allegation that there has been a change in the original location of the construction for which the environmental clearance has been granted and as such would amount to violation of terms of lease at Annexures-B and D as categorically mentioned in condition No.42 of Annexure-B and in condition No.44 of Annexure-D and hence the same is liable to be quashed along with Annexure-E is false. It is submitted that physical demarcation of High Tide Line (HTL for short), Low Tide Line (LTL for short) and delineation of CRZ setbacks for the project site were carried out by National Centre of Earth Science Study (NCESS), by Ministry of Earth Sciences, Government of India. Based on the perusal of the CRZ Notification, 2011 and the HTC/LTL, survey outcome, following are the inferences arrived:

- Proposed site falls on the sandy beach near the river mouth;
- CRZ Setback lines indicate that the proposed barge/vessel loading site mostly falls within the CRZ I (B) (i.e., are between LTL and HTL), CRZ (III) undeveloped rural area and CRZ IV (near shore waters and backwaters);
- Proposed location does not contain environmentally sensitive areas such as National Parks/Marine Parks, Sanctuaries, Wildlife Habitats, Corals / Coral Reefs. It also does not include breeding and sprawling grounds of fish and other marine life, areas of outstanding natural beauty/historically/heritage areas, areas rich in genetic diversity;
- As per Coastal Regulation Zone (CRZ) Notification, 2011 and Karnataka Coastal Zone Management Plan (CZMP), Proposed Honnavar barge/vessel loading is a permissible activity in CRZ as it requires waterfront and foreshore facilities. The project layout superimposed on HTL, LTL and CRZ setbacks is given in the **Final EIA Report February 2012.**

**59/ Re-Para No.41:**

The allegations made by the Petitioner regarding eggs of Sea Turtle alleged to have been found in and around the beaches are false and baseless. The press reports are all planted with the object of fabricating false evidence. None of the studies conducted experts and referred to above indicated any turtle breeding ground in the project area. The genuineness and authenticity of the documents produced by the petitioners are disputed.

60. **Re-Para No.42:**

According to Coastal Regulation Zone (CRZ) Notification 2011 and 2019, port development is a permissible activity. Honnavar Port project area falls under CRZ-1 (B). All other allegations made by the petitioner are ill founded, misconceived and baseless, which are not legally tenable. Copies of CRZ Notification, 2011 and 2019 are produced herewith and marked as **Annexure - R18 and R19** respectively.

61. **Re-Para Nos.43 & 44:**

It is reiterated that as per CRZ Notification 2011, the port area of Honnavar comes under CRZ-1 (B). Hence the allegations made in this paragraph are baseless. The decision referred to in this paragraph are not applicable to the present case.

62. **Re-Para No.45:**

As regards the averments made in this paragraph, it is submitted that KCZMA upon careful consideration of the Honnavar Port project proposals has recommended issue of Environmental/CRZ Clearance during the meeting held on 28.05.2012. The allegation made by the Petitioner regarding CRZ Clearance in favour of M/s. Mastership Yard Private Limited do not relate to Honnavar Port Development. The Petitioner is repeatedly trying to misquote and correlate clearances which are not in any way connected to Honnavar Port Development.

63. **Re-Para No.46:**

Since the project area falls under CRZ - 1 (B) and does not have any forest and wildlife area clearance from National Wildlife Board is not needed. The allegation to the contrary is totally false and misconceived.

64. **Re-Para No.47:**

The petitioner with an intention to mislead this Hon'ble Court is trying to bring the issue pertaining to Karwar Port, wherein necessary consent was not in place. In the instant case, this respondent has obtained all the necessary approvals, clearances, etc., as required under law and is carrying on the port construction activities legally. Honnavar Port is being developed on PPP Mode. The entire cost of construction is being met by this respondent. The validity of the lease is for a period of 30 years. There is no financial implication on the part of State Government. Hence the petitioner is not entitled for any interim order as falsely sought and hence the Writ Petition is liable to be dismissed.

65. **Re-Para No.48:**

Since the entire case is filed on false and misleading plea by the petitioner, the petitioner is not entitled to produce any other document or material in support of their case in future and to place any other relevant facts on record.

66. **Re-Para No.49:**

a. The allegation that the construction that is being carried out by Respondent No.1 is illegal, because the same falls within CRZ-IA

and as such the project in question is a prohibited activity is false. The further allegation that the same is being carried on without necessary Consent for Establishment (CFE) from the 7<sup>th</sup> respondent and also without obtaining permission from the other concerned authorities is false. The allegation that in the event the interim relief is not granted, then the Respondent No.1 will continue with the construction activity, which will have a serious impact on the ecology and environment is false. The allegation that there will be large scale destruction of natural resources, and livelihood of thousands of Fishermen and Fisherwomen would be taken away, and the main prayers sought for in the Writ Petition would be rendered infructuous is false. Since the issues involved in the W.P.No.1332/2020 and the issues involved in the present Writ Petition are totally different, the interim order dated 23.01.2020 passed in the former case has no application to the present case. Since this respondent is carrying on the port construction activities in accordance with law and after obtaining necessary permissions, approvals and clearances etc., the prayers sought in the above Writ Petition are not maintainable and consequently the Writ Petition is liable to be dismissed with exemplary costs. In case the port activity is stalled, there will be huge loss to both the Government Exchequer and this respondent. The project is a public project, the above Writ Petition is liable to be dismissed.

b. It is pertinent to state herein that recently, India Maritime summit was organized by Government of India which was inaugurated by Hon'ble Prime Minister of India. This respondent was also provided an opportunity by the Government of Karnataka to take part in the summit through Video Conference. On behalf of this respondent, the fact that the Honnavar Port is being developed by

the Lessee on PPP mode, the various advantages to the region due to port development, the active support being received by the State Government, etc. was highlighted during the maritime summit. Through this VC, Honnavar Port development issue has been brought to the notice of Government of India by the Hon'ble Chief Minister of Karnataka.

c. Further, in the budget for the financial year 2021-22 presented by Hon'ble Chief Minister of Karnataka, a sum of Rs. 100.00 Crores has been earmarked for road connectivity proposal from Kasarkod side of Honnavar port to NH - 66. The decision of Government of Karnataka to develop Honnavar Port is re-iterated by Government through this decision of providing proper road link to Port area from NH-66.

d. The allegation that the fishermen are likely to be affected due to construction of port is false. Presently fishermen are not able to do fishing activity during monsoon. With the dredging activity being undertaken by the respondent and by creation of a 24/7 dedicated exclusive channel earmarked by marker buoys would enable movement of fishing vessels and enable fishermen to carry-out their traditional fishing activities safely. Regarding Impact of port development over fishing activity, L&T Ramboll (Authorized agency of Ministry of Environment & Forest) - EIA consultant for Honnavar Port development - have prepared a report "**Second Clarification to SEAC Observations of EIA for Honnavar Barge / Vessel loading facility June - 2012**" (Annexure - R15). Karnataka Veterinary, Animal Husbandry and Fisheries Sciences University has conducted a detailed study of fishing activity new Honnavar. While conducting a detailed study, baseline data on marine ecology was

collected through a marine ecology survey during the month of November, 2009. The study findings are as follows:

- i. Sediments sample collected from all the sites were uncontaminated. As such no adverse impact due to dredging on the chemical characteristics of water or sediment is expected;
- ii. Dredging activities will result in the localized removal of oxygen, however, removal of oxygen from the water is only a temporary phenomenon, as tidal exchange is more predominant and it would quickly replenish the oxygen supply;
- iii. No rare or endangered species amongst benthic fauna are reported in the study area. Earlier study also confirmed that the benthic organism will colonized within a short time. Impact due to dredging activity on benthos is very limited;
- iv. In the proposed area including the marine area, fisheries are not well developed. Hence there are no significant impacts on fisheries;

67. Further in the report submitted to the project proponent, it is made clear that a pair of break water is required to retain the natural tidal prism of the system while developing the port facilities. It is further submitted that the fishermen community living in this part of Honnavar constitute not exceeding 10% of the total population. It is to be understood that a small percentage of people cannot claim absolute proprietorship of the entire marine zone. In fact, the greater employment opportunities, socio-economic change in the region, improvement of infrastructural facilities, removal of

unemployment problem, skill development of unemployed youth, etc., that are available to entire population in the region cannot be withered away by a section of local fishermen who are obviously in minority.

68. If such prevention of maritime development takes place in the country for securing fishing activity for fishermen, it will end up in a position of no ports for carrying out import/export activities in marine zone, which is detrimental to economic activities. Marine infrastructure plays a key role in the economic development of the nation. With the establishment of ports and its commercial operations, economy of the region substantially improves. It is a matter of common knowledge that ports and port related activities play a key role in the national economy.

69. All other allegations and averments made in the Writ Petition which are not specifically traversed herein are hereby denied.

WHEREFORE Respondent No.1 above named respectfully prays that this Hon'ble Court may be pleased to dismiss the above Writ Petition with exemplary costs and grant such other and further reliefs as are just.

BANGALORE,

DATED:

ADVOCATE FOR RESPONDENT No.1

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE****W.P.No.4039/2021**

DISTRICT \_\_\_\_\_

Advocates

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[chandrashekar.somashekar@gmail.com](mailto:chandrashekar.somashekar@gmail.com)**Honnavar Taluk Hasimeenu**  
**Vyparastara Sangha (Regd.)**

AND

**Honnavar Port Pvt.Ltd., & Others****PRESENTATION FORM**

Sl.No.	Description of paper presented	Court Fee Affixed on the paper
1.	<b>Statement of Objections of Respondent No.1 to Main Writ Petition</b>	
2.	On Vakalath	
3.	On Certified Copies	
4.	On Process Fee	

**Total**

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Presented by

Advocates for the Respondent No.1

Received Paper

Place: Bangalore

Date: .05.2021

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE****W.P.No.4039/2021 (PIL)****Between:**

Honnavar Taluk Haslmeenu Vyparastara

Sangha (Regd.) ..

PETITIONER

**And:**

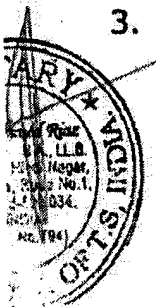
M/s. Honnavar Port Pvt. Ltd. and others ..

RESPONDENTS

**AFFIDAVIT**

I, G. Veera Sekhar Reddy aged about 39 years, son of Sri G.S.P. Veera Reddy, residing at GVPR Engineers Limited, D. No 8-2-293/A, Plot No 739-A, Road No 37, Jubilee Hills, Hyderabad, Telangana - 500033, do hereby solemnly affirm and state on oath as follows:

1. I am the Director of the 1<sup>st</sup> respondent company and I know the facts of the case. I am authorised to swear to this affidavit.
2. The statements made in paragraphs 1 to 69 of the accompanying statement of objections to the main writ petition are true to the best of my knowledge and information and believe them to be true.
3. Annexures R1 to R19 are true copies of the originals.



For HONNANAVAR PORT PRIVATE LIMITED

  
 Director

**VERIFICATION**

I, G. Veera Sekhar Reddy the deponent herein, do hereby solemnly affirm and declare that this is my true name and signature and that what is stated above is true and correct to the best of my knowledge, information and belief.

IDENTIFIED BY ME

For HONNAVAR PORT PRIVATE LIMITED

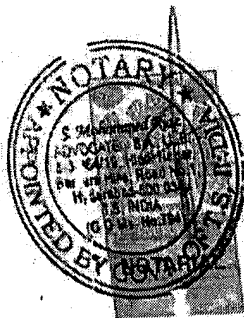
ADVOCATE

DEPONENT  
Director

Hyderabad

Dated:

No. of corrections:



// ATTESTED //

S. Mohammed Qasim  
B.A., LL.B.  
ADVOCATE & NOTARY  
(S.O. Ms. No. 794)  
(Appointed by Govt. of T.S. INDIA)  
6-3, 354/19, Hindi Nagar, Banjara Hills  
Road No. 1, Hyderabad-500 034, T.S. INDIA.

28 MAY 2021

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**W.P.No.4039/2021 (PIL)**

**Between:**

Honnavar Taluk Hasimeenu Vyparastara

Sangha (Regd.) ..

**PETITIONER**

**And:**

M/s. Honnavar Port Pvt. Ltd. and others ..

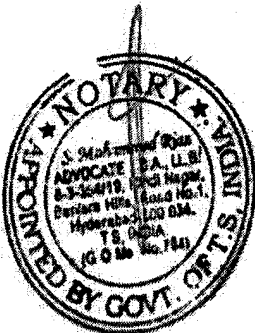
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1. I am the Director of the 1<sup>st</sup> respondent company and I know the facts of the case. I am authorised to swear to this affidavit.

2. The statements made in paragraphs 1 to of the accompanying application are true to the best of my knowledge and information and believe them to be true.



For HONNAVAR PORT PRIVATE LIMITED

*G.V.*  
Director

**VERIFICATION**

I, G. Veera Sekhar Reddy the deponent herein, do hereby solemnly affirm and declare that this is my true name and signature and that what is stated above is true and correct to the best of my knowledge, information and belief.

IDENTIFIED BY ME

For HONNAVAR PORT PRIVATE LIMITED

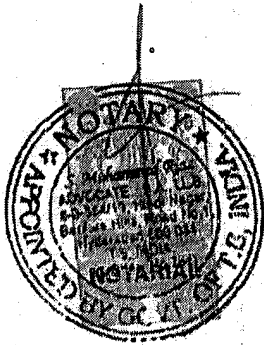
ADVOCATE

*[Signature]*  
DEPONENT  
Director

Hyderabad

Dated:

No. of corrections:



// ATTESTED  
*[Signature]*  
S. Mohammed Saif  
B.A./LL.B.  
ADVOCATE & NOTARY  
(G.O.No. No.794)  
(Appointed by Govt. of T.S. INDIA)  
6-3-254/19, Hindi Nagar, Banjara Hills  
Road No.1, Hyderabad-500 034, T.S. INDIA.

28 MAY 2021

**ASSESSMENT OF COASTAL AND MARINE  
ECOSYSTEM GOODS AND SERVICES –  
LINKING COASTAL ZONE MANAGEMENT  
TO ECOSYSTEM SERVICES IN INDIA**

**FINAL REPORT**

**TURTLE  
NESTING GROUNDS**

**ISE DIVISION**

**National Centre for Sustainable Coastal Management**  
Ministry of Environment, Forest & Climate Change

2018 - 19  
Chennai



**ASSESSMENT OF COASTAL AND MARINE  
ECOSYSTEM GOODS AND SERVICES - LINKING  
COASTAL ZONE MANAGEMENT TO ECOSYSTEM  
SERVICES IN INDIA**

**TURTLE NESTING GROUNDS**

by

**Integrated Social Sciences and Economics (ISE) Division  
National Centre for Sustainable Coastal Management  
Ministry of Environment, Forest and Climate Change  
Government of India**

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**Guidance**

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## SUMMARY

Sea turtles are ancient reptiles that have changed little over their 150 million year history on Earth. Sea turtles migrate hundreds or even thousands of kilometres between established feeding and breeding sites. All sea turtle species lay their eggs on land, typically on sandy beaches. Turtle nesting grounds are on land, and they are typically sandy beaches. Turtles have various ecological roles, including: nutrient cycling, which is crucial for the coastal ecosystem; and maintenance of sea grass beds, coral reefs and beach dunes. Aside from the obvious ecological services, sea turtles contribute to tourism activities, due to their charismatic nature, yielding great economic benefits.

Turtle nesting grounds have been distributed in 179 sites covering 17,872 ha are located in mainland and island coast of India. In turtle nesting areas, regulation, cultural and supporting services generate economic value than consumptive use. Turtle nesting beaches protect the coastal communities from storm surges, and cyclones. In addition, it acts as an aquifer and source of freshwater to the coastal communities of India. Turtle products such as oil, calipee (cartilage), skin, viscera, shell, and curios are popular among the coastal communities of the world illegal market and it is protected in India. Though marine turtle are protected from consumption in India, to estimate the value of turtle's international market, value of meat and eggs used by coastal communities have been used to value the turtle nesting grounds.

In general, the survival of sea turtle has been threatened by loss of their habitat. Sustainability of turtle population has been pressurized by various anthropogenic activities in turtle nesting sites. It is widely observed that, the turtle population and its nesting beaches are declining due to manmade activities and sea level rise. Quantification of the economic consequences of marine turtle use and conservation could contribute significantly to our understanding of use options and their ecological impacts, and hence further the process of defining adequate management policies. Expressing the economic value of various uses and benefits of turtle nesting grounds shall be a tool to raise awareness and convey its (relative) importance to general public and policy makers.

The use and non-use values of the turtle nesting ground has been estimated at Rs. 45,68,358 /- yr. /ha. Out of which recreation function shares Rs. 29,81,237/- yr. /ha. Disturbance regulation and water storage function of turtle nesting ground was estimated at Rs. 1,17,866/yr./ha, and Rs. 12,61,326/yr./ha respectively. In addition, consumptive value of Rs.2,07,929/ ha, has been incorporated in this study though there is no consumption in India but, it has international market value. The Total Economic Value of turtle nesting ground of India is Rs.7997 Crore. Out of the total benefit from turtle nesting grounds, Andaman and Nicobar islands share Rs.5826 crore followed by Andhra Pradesh Rs. 601 crore. Economic contributions of various States and UTs have been described below.

## 1. INTRODUCTION

Sea turtles are ancient reptiles that have changed little over their 150 million year history on Earth (Fugazzotto and Behera, 1999). Sea turtles are air-breathing reptiles spending most of their lives at sea. During the breeding/nesting seasons, both sexes typically aggregate in the waters close to the nesting beaches (Hamann et al., 2003). Sea turtles migrate hundreds or even thousands of kilometers between established feeding and breeding sites (Plotkin, 2003). All sea turtle species lay their eggs on land, typically on sandy beaches. The location at which sea turtles lay their eggs is called turtle nesting grounds. Turtle nesting are happening in narrow beaches where it can lay eggs and suitable environment for hatching of young ones. Costa Rica, Nicaragua, Panama, Mexico, Surinam and India are the popular beaches for turtle nesting (National Marine Fisheries Services/US Fish And Wildlife Service., 1996).

Turtle nesting grounds are on land, and they are typically sandy beaches (<http://www.biodiversitya-z.org/content/turtle-nesting-site.pdf>). The seven different species of sea turtles occupy different, although often overlapping, geographic ranges. In general, sea turtles occupy a wide range of oceanic habitats and will travel widely in their lifetimes (Hawkes et al., 2009). Turtles have various ecological roles, including: nutrient cycling, which is crucial for the coastal ecosystem; and maintenance of sea grass beds, coral reefs and beach dunes (Moran and Bjorndal, 2005, Hannan et al. 2007). Aside from the obvious ecological services, sea turtles contribute to tourism, due to their charismatic nature, yielding great economic benefits (Clevo and Clem, 2001). Marine turtles are highly migratory and represent an open-access resource. Many countries recognize the need to reduce marine turtle mortality from human sources and have provided partial or total legal protection for marine turtles. However, attempts to exclude users and reduce human impacts have met limited success, particularly in countries where funds to enforce restrictive legislation are scarce (Troeng and Drews, 2004).



Rushikulya, Odisha, India

In general, the survival of sea turtle has been threatened by loss of their habitat. It is widely observed that, the turtle population and its nesting beaches are declining due to manmade activities and sea level rise (Fish et al., 2008). IUCN has classified the marine turtle species under red list, endangered and vulnerable species. In India, many turtle species have been protected under Schedule 1 of the Indian Wild Life (Protection) Act, 1972. Party to CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora), ratified the

Convention on Biological Diversity (CBD) and related treaties, implementing National Biodiversity Act. Areas of turtle nesting site have been classified under sanctuaries and National marine parks. Appendix I include over 820 plant and animal species, including all seven marine turtle species that are threatened with extinction and are or may be affected by trade (CITES, 2000). International trade in these species is subject to particularly strict regulation in order to avoid further endangering their survival. International commercial trade in Appendix I species of CITES and its products are prohibited. Non-commercial trade may be authorized in exceptional circumstances, such as for specimens acquired before the Convention entered into force, for personal or household effects, or for specimens bred in captivity, according to definitions adopted by the Conference of the Parties. Schedule I items of CITES shall possess export documents to the standard format recognized for international trade with non-CITES Parties. Irrespective of the prohibition of international trade on a commercial scale, marine turtles continue to be taken incidentally or opportunistically for domestic use and turtle products are traded illegally within the region and exported illegally (Elizabeth H. Fleming., 2001). Each shipment must be authorized and accompanied by an export permit from the country of origin, or re-export certificate from the country of re-export, as well as an import permit issued by the importing country.

To protect the turtles and their population, India is implementing many initiatives including banning of fishing turtle breeding season around nesting sites; practice of using Turtle Excluding Device (TEDs) in fishing nets to avoid by-catch of turtles, awareness campaign etc. Turtle nesting grounds have been classified as Ecologically Sensitive Area (ESA) under CRZ 2011 and the activities in turtle nesting area have been prohibited and regulated.

Sustainability of turtle population has been pressurized by various anthropogenic activities in turtle nesting sites. Though, trafficking of sea turtle products is illegal, poverty of the third world countries or developing countries are driving the market (Didiher Chacon., 2002). In recent decades, there has been increased recognition that economic factors are behind many human activities that cause declines in habitats and species (Troeng and Drews, 2004).

Quantification of the economic consequences of marine turtle use and conservation contributes significantly to our understanding of use options and their ecological impacts, and hence further the process of defining adequate management policies. Expressing the economic value of various uses and benefits of turtle nesting grounds shall be a tool to raise awareness and convey its (relative) importance to general public and policy makers. These values shall help to make decisions about allocation of resources between competing uses (Farley, 2008). Accordingly, in this chapter, various goods and services of turtle nesting ground were identified and economic values of the above services have been fixed using benefit cost transfer method and other valuation methods. Application of economic value to turtle nesting grounds of India for policy decisions has been discussed.

Turtle nesting in beaches shall have the following main environmental variables for oviposition they include; fine sands, moderate slopes, good humidity and drainage, are. Turtles nesting grounds are the specific places where turtle population can be increased. To protect the turtle population, nesting grounds shall be essentially protected. Consumptive and non-consumptive economic valuation studies on turtle nesting sites shall provide an opportunity to create markets for conservation of turtle nesting grounds and to analyse the impacts of externalities. This shall lead to enhance our knowledge on total flow of benefits from turtle nesting ground. In view of the above, economic valuation of turtle nesting ground covers turtles and it's nesting beaches.

## 2. TURTLE NESTING GROUNDS IN INDIA - VALUATION

Turtle nesting grounds are distributed in 179 sites in the mainland coast and island coast of India. Total areas of nesting grounds distribution in India are 17872 ha. Andaman and Nicobar Islands have the highest number (102) of turtle nesting grounds covering 13344 ha area. In the mainland the coastal States viz., Maharashtra has 14 turtle nesting grounds followed by Gujarat and Andhra Pradesh. The above turtle nesting grounds are covering an area of 202 ha, 399 ha and 1375 ha respectively. Turtle nesting grounds of various coastal States and UTs of India has been given in chart Fig 1. It was estimated that up to one million sea turtles have nested in Odisha (873 ha) during a single year during the mid-1980's (Venkatraman and John Milton., 2003). Accordingly, one hectare of turtle nesting ground shall support 1145 turtles to lay eggs per year and the total nesting grounds of India support 211,67,615 number of turtles to lay eggs in 179 turtle nesting grounds. List of various turtle nesting grounds around India are given in table 2.1.

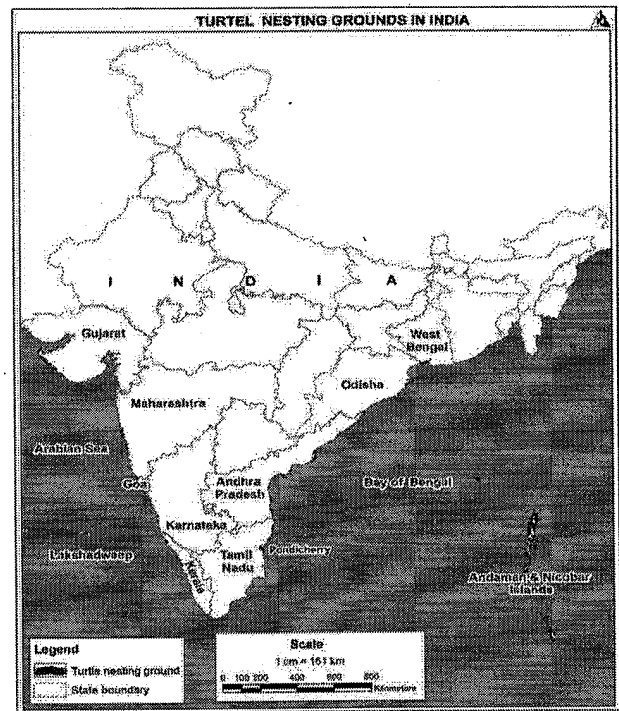


Fig 1

Table 2.1 Turtle nesting grounds in India				
S.No	States	No of sites	Area (ha)	Common sp.
1.	Gujarat	13	399.51	Olive ridley, Green turtle
2.	Maharashtra	14	202.20	Olive ridley
3.	Goa	6	25.54	Olive ridley
4.	Kerala	4	116.61	Olive ridley
5.	Lakshadweep	5	992.15	Olive ridley, Green turtle and Hawksbill
6.	Tamil Nadu	6	263.08	Olive ridley
7.	Pondicherry	2	15.79	Olive ridley
8.	Andhra Pradesh	12	1374.69	Olive ridley
9.	Odisha	11	872.93	Olive ridley
10.	West Bengal	4	265.48	Olive ridley
11.	Andaman & Nicobar	102	13344.06	Olive ridley, Green turtle, Hawksbill and Leatherback
	<b>Total</b>	<b>179</b>	<b>17,872.05</b>	<b>Olive ridley, Green turtle, Hawksbill and Leatherback</b>

Source: ESAs of India NCSCM report, 2015; <http://morjimhermitagegoa.com/oliveridleyturtles.html>

Table 2.2 Turtle Nesting Grounds – Indian Coastal Districts						
Sl. No	State / Union Territory	District	Patches in coastal areas	Turtle Nesting Grounds (ha)	Turtle density	Common sp.
1.	Gujarat	Devbhumi Dwarka	Lamba-Sethala Mata Mandir	32.55	31	Olive ridley, Green turtle
2.			Mithapur-Mojap	12.57	24	
3.			Sethala Mata Mandir-Harshad Mata Mandir	13.99	33	
4.			Okhamadhi-Kharakhetar	33.41	16	
5.			Mojap-Shivrajpur	13.14	32	
6.			Kharakhetar-Kuranga	25.57	20	
7.			Navadra-Lamba	40.44	34	
8.			Nearby Shivrajpur Beach	6.98	NA	
9.		Junagadh	Shil-Lohej	50.82	42	Olive ridley, Green turtle
10.			Mangrol-Mangrol Bara	20.57	37	
11.		Porbandar	Ratadi-Kantela	47.43	29	Olive ridley, Green turtle
12.			Kantela-Kuchhadi	50.55	37	
13.			Navibandar-Rativa	51.52	15	
Sub Total			13	399.51	350	Olive ridley, Green turtle
14.	Maharashtra	Ratnagiri	Kalthare	5.09	2	Olive ridley
15.			Sandkhol	4.32	NA	
16.			Velas	8.59	7	
17.			Guhagar	48.91	1	
18.			Kelashi	17.00	0.33	
19.			Dabhol	6.00	2	
20.			Bankot Fort	1.52	NA	
21.			Baag beach Guhagar	6.64	NA	
22.		Raygad	Murud Janjira	2.79	NA	Olive ridley
23.			Diveagar	73.70	1	
24.			Harihareshwar	13.04	1	
25.			Maral	7.16	NA	
26.			Shining Sands Beach	0.08	NA	
27.			Vela's Beach	7.37	NA	
Sub Total			14	202.20	14	Olive ridley

28.	Goa	North Goa	Mandrem (Nearby Junos Vaddo village)	2.28	NA	Olive ridley
29.			Morjim (Morjim South)	3.11	NA	
30.			Mandrem	2.46	1	
31.			Morjim (Morjim North)	0.86	2	
32.		South Goa	Agonda	11.90	3	Olive ridley
33.			Galgibaga	4.92	3	
Sub Total			6	25.54	9	Olive ridley
34.	Kerala	Kozhikode	Kolavipalam	70.86	NA	Olive ridley
35.		Malappuram	Alungal	9.25	NA	
36.		Kasargod	Thaikkadappuram	20.32	NA	
37.		Kasargod	Hosdurg Beach	16.18	NA	
Sub Total			4	116.61	NA	Olive ridley
38.	Lakshadweep	Lakshadweep	Suheli Valliakara	58.33	NA	Green turtle
39.			Karingikuppu	24.20	NA	Green turtle
40.			Tinnakara	52.36	NA	Green turtle
41.			Minicoy group	513.16	NA	Olive ridley, Green turtle
42.			Agatti	344.10	NA	Olive ridley, Green turtle and Hawks bill
Sub Total			5	992	NA	Green turtle Olive ridley & Hawks bill
43.	Tamil Nadu	Chennai	Marina Neelankarai (Urrur kuppam-kaveri Nagar)	67.69	8	Olive ridley
44.			Marina Neelankarai (Marina - Srinivasa Puram)	86.06	8	
45.			Pattinapakkam	13.46	NA	
46.		Cuddalore	(Nearby Mandalpattu village)	3.95	NA	Olive ridley
47.		Kanchipuram	Alikuppam	44.17	NA	Olive ridley
48.		kanchipuram	Neelankarai Uthandi	47.74	1	Olive ridley
Sub Total			6	263.08	17	Olive ridley
49.	Pondicherry	Pondicherry	Nearby village Nallavadu	3.46	NA	Olive ridley
50.			Nearby village Panithittu	12.34	NA	
Sub Total			2	15.79	NA	Olive ridley

51.	Andhra Pradesh	East godavari	Gautami Godavari - Nilarevu	360.94	68	Olive ridley
52.			Hope Island	61.72	7	
53.			Sacramento Island	74.36	373	
54.		Guntur	Krishna Lankavanidibba	172.53	10	Olive ridley
55.		Krishna	Elichetladibba	346.96	31	Olive ridley
56.		Nellore	Pennaru - Mypadu	63.30	7	Olive ridley
57.			Sriharikota - Durgarajupatnam	88.67	8	Olive ridley
58.		Srikakulam	Bahuda Kapaskuddi	85.24	40	Olive ridley
59.			Vamsadhara Bandaruvanipeta	37.39	55	
60.			Rajaram Puram Beach	10.03	NA	
61.		Vishakapatnam	Kunduvanipeta - Nagavali	46.83	50	Olive ridley
62.			Muthiyavanipalem	26.70	32	
Sub Total			12	1374.69	681	Olive ridley
63.	Odisha	Baleshwar	Digha (Nearby Digha village)	14.89	NA	Olive ridley
64.		Ganjam	Rushikulya	121.93	16667	Olive ridley
65.			Bahuda Kapaskuddi	72.69	55	Olive ridley
66.		Jagathsinghpur	Akashdia Island (Devi)	314.45	10000	Olive ridley
67.		Kendrapara	Gahirmatha (Wheeler, Ekakula, Habalikati)	154.11	33333	Olive ridley
68.			Agarnasi	127.88	NA	
69.			Pentha	66.99	NA	
Sub Total			11	873	60,055	Olive ridley
70.	West Bengal	Purba Midnapore	Dadanpatra	51.10	NA	Olive ridley
71.			Junput	146.88	NA	Olive ridley
72.			Digha (Jagai Basan-Digha)	50.14	NA	Olive ridley
73.			Shankarpur	17.36	NA	Olive ridley
Sub Total			4	265.48	NA	Olive ridley
74.	Andaman & Nicobar	Andaman & Nicobar	Andaman & Nicobar	13344	8,026	Olive ridley, Green turtle, Hawksbill and Leatherback
Sub Total			102	13344	8,026	Olive ridley, Green turtle, Hawksbill & Leatherback
Total			179	17872.05	69152	Olive ridley, Green turtle, Hawksbill & Leatherback

### 3. VALUATION OF GOODS AND SERVICES OF TURTLE NESTING GROUNDS

Goods and services provided by marine turtles to the global community are economically valued by societies around the world (Daily et al. 2000). The economic values are significant for expressing utilitarian and non-consumptive values of sea turtles. In turtle nesting areas, regulation, cultural and supporting services generate gross revenue than consumptive use. It has been estimated that, the average gross revenue was 2.9 times higher at sites where marine turtles are a major tourist attraction than the average gross revenue of consumptive use sites (Troëng and Drews, 2004).

Under consumptive value of turtles, traditionally, all of their body parts have been used for specific purposes. Marine turtle meat and eggs have long provided a supplemental source of protein for coastal communities. Its eggs are often sought today for their supposed aphrodisiac qualities. Turtle products such as oil, calipee (cartilage), skin, viscera, shell, and curios are popular for coastal communities of the world (Elizabeth H. Fleming., 2001). According to Parsons (1972), antiquity information on the use of sea turtles products are available in Egyptians, Asians and Europe scripts. During colonial times, marine turtle utilization increased for use as food by ships' crews and for export to European countries. In 1950s and 1960s, international markets for shell from hawksbill turtles expanded, and markets developed and grew for green and olive ridley turtle shell and leather. The United States, Europe, and Japan were the major markets until domestic legislation and international regulations closed the legal trade to the United States and Europe (Elizabeth H. Fleming., 2001). It is clear that a culture and its folklore will not be lost by reducing or even stopping completely the use of sea turtles and their products. The sea turtle products have been continuously used locally and nationally. In the global market, turtle products have been illegally at least in lesser scale exported to demanding Nations. Japanese market is one of the most important consumers of sea turtle products, such as hawksbill shell (Didiher Chacón., 2002).

Turtle nesting site is a capital that provides opportunities including revenue generation using various incentives in cultural and supporting services. Turtle nesting beaches are protecting the coastal communities from storm surges, and cyclones. In addition, it acts as an aquifer and source of freshwater to the coastal communities of India. Developing countries have realized the benefit out of turtle nesting grounds service and conserve it by sustainable management. Countries promote tourism in the coastal areas to create awareness and educate the people about the goods and services of the turtle nesting areas. Costa Rica, Sri Lanka, Indonesia Malaysia and India are promoting sea turtle-based tourism. This tourism promotes insitu and exsitu conservations by marketing sea turtle nesting and hatcheries development. Sea turtle viewing has also been encouraged in India similar to Australia, South Africa, USA, and Israel. Furthermore, the turtle nesting

grounds provide supporting services such as biodiversity maintenance, and are a source of scientific knowledge about land ocean interaction and migration. Turtle nesting sites goods and services have been influenced by many externalities. The goods and services of turtle nesting grounds, economic values, and application for policy values for sustainable management of turtle nesting grounds have been discussed in the following chapters.

## 4. META ANALYSIS (ACCOUNTING) TURTLE NESTING GROUNDS - GOODS AND SERVICES

A meta-analysis is defined as the study of studies (Melina Barrio, Maria L. Loureiro., 2010). Meta-analysis of turtle nesting ground was conducted by studying about 250 research studies. In the turtle nesting grounds, turtles are the key stone species and the nesting area has the qualities of general beaches hence it provides different services. Based on the research studies, the turtle

fleshes have been consumed and its body parts have been used for ornamental purposes. The turtle nesting grounds have rare earth mineral deposits which has huge potential in the international market. The turtle nesting grounds also protect the coastal communities from hazards and thus increase real estate value. In addition, the turtle nesting grounds are a source of freshwater and minerals to the coastal communities. More than above, in Hindu mythology, turtles are second incarnation of lord Vishnu and have great spiritual and cultural value for coastal communities. In addition, the turtle nesting ground support the fishermen to land their boats, dry their

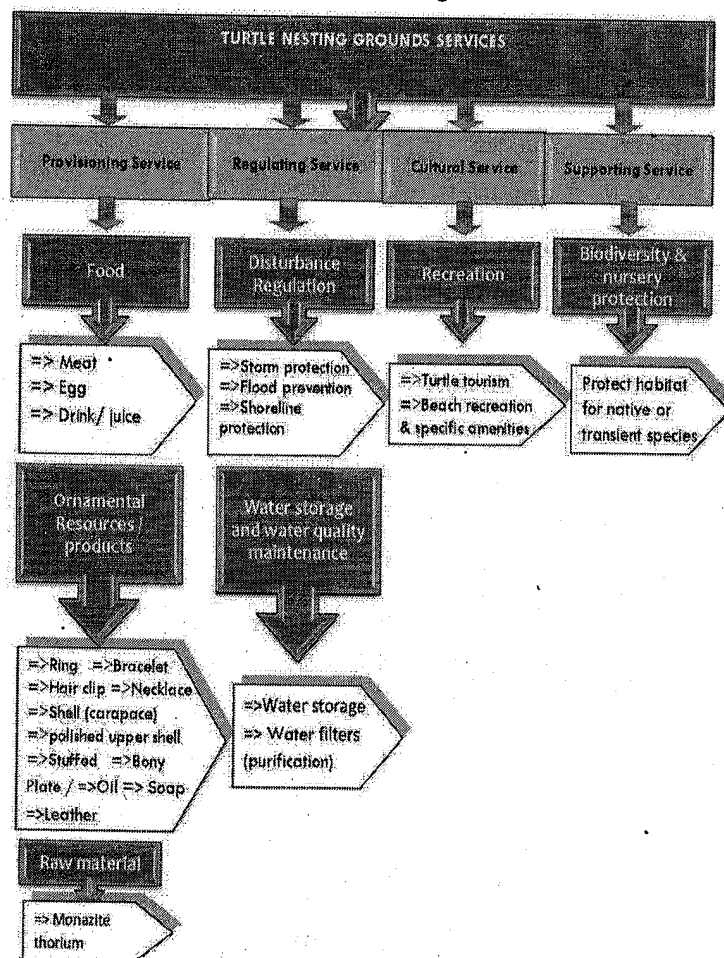


Fig2

harvests and it also acts as a market place. The turtle eggs and carcass are food for many vertebrates and invertebrates food web and are very significant to biodiversity and has significant scientific value. The scientific studies and research reports on turtle nesting grounds opened much information of the services provided by turtle nesting grounds. The services have been classified as (i) provisional service (ii) regulation services (iii) cultural services and (iv) supporting services following the Millennium Ecosystem Assessment (2005). The following chapters exhibits the various services and functions of turtle nesting grounds and the estimated value for various services. The list of studies which have been referred and used for valuation of various turtle nesting ground services and functions have been given in Annexure 1.

#### 4.1. Provisioning services of turtle nesting grounds

Provisioning services of the turtle nesting grounds are the goods that can be used for human requirements. Turtle nesting grounds provide turtles, which are the key stone parameter of the Ecologically Sensitive Area (ESA). Marine turtles provides eggs, meat, shell, oil, leather or other products since at least 5000 BC (Frazier 2003). In India, it was observed that during the dynasty of Kanika, people were paying "Anda Kara" (revenue for the eggs) and were collecting boatload of eggs from the Gahirmatha rookery (Venkatraman, K. and M.C. John Milton., 2003).

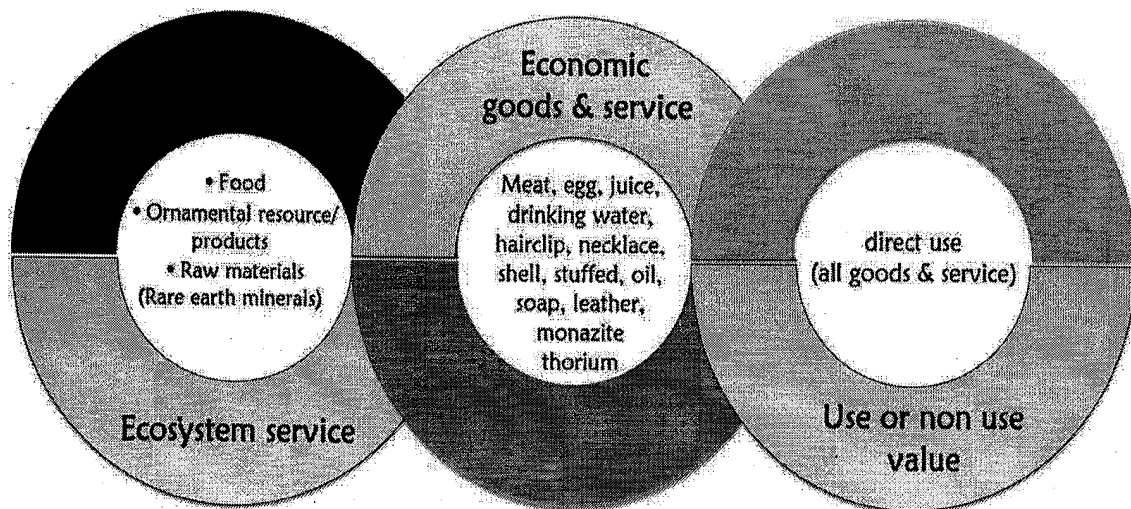


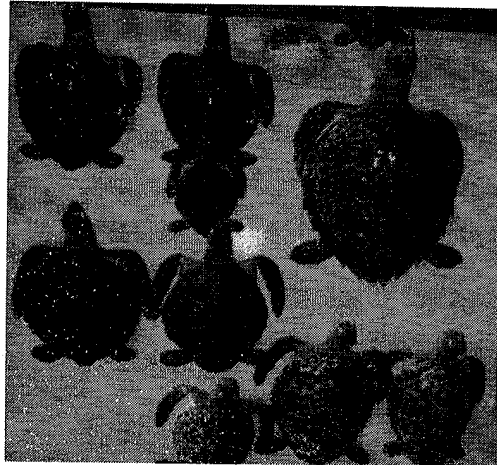
Fig 3

Hair clips, combs, rings, frames for glasses and other items, made from marine turtle are attractive ornamental uses of turtle in various countries. Central American countries have a use of olive ridley turtle oil for respiratory ailments for cold. The oil has strong smell and taste, and it also has a different colour and viscosity hence, it has been used for indigenous soap making (Didiher Chacon,

2002). During colonial times, marine turtle utilization increased for use as food by ships' crews and for export to European countries (Jackson 1997). Due to such trade, the green turtle was once called "...the world's most valuable reptile..." (Parsons 1962). In addition the turtle nesting beach sands provide varieties of economically important minerals. The raw materials in the form of sand has been mined for centuries for multiple uses, including extraction of minerals such silica and feldspar for glass and ceramic production, infill for development, amendments for agriculture, and base material for construction products (Edward B. Barbier et al., 2011).

#### 4.1.1. Consumptive value

Turtle meat has been used for various purposes in India. Globally, turtle meat has been used for consumption purpose and has a consumptive value. Didiher Chacón (2002) has reported that there is no species wise variation in consumption due to taste. All turtles taste the same and the flavour depends on how it is cooked. In Caribbean countries, wild turtle meat can fetch up to US\$19.25-US\$27.50/kilogram. A turtle farm sold turtle meat for US\$13.20/kg. Cooked turtle meat dishes cost US\$12-15 per dish (Elizabeth H. Fleming., 2001).



However the turtle meat rate is very low in Livingston, Guatemala, where one kilogram of turtle meat sells for US\$1.32 (Didiher Chacón., 2002). In India, out of the seven species of living sea turtles, juveniles and adults of three species are heavily exploited for commercial trade. The green sea turtle is taken for its much-favoured meat. Its belly, neck and tail bones are used for ingredient of turtle soup. In Andaman Islands all species except the leatherback was hunted for meat. The tribes of Andaman consume turtle meat minced with coconut. In Lakshadweep turtle meat is used as shark bait. Turtle fat was used to waterproof the boats in Lakshadweep islands. It was reported that during between 1963 and 1974, India exported 102,022 kg of sea turtle products valued at roughly \$ 100,800. The products included sea turtle meat, oil and shell (Venkataraman, K. and M.C. John Milton., 2003).

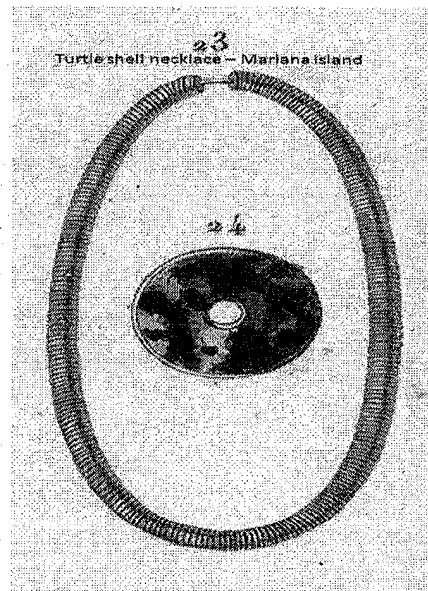
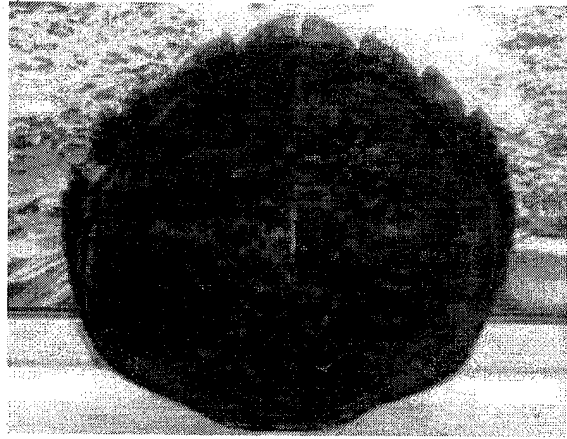
Sánchez et al. (2002) reported that the average price per dozen eggs was \$2.89 only. Generally, in Guatemala, raw turtle eggs are mixed with orange juice and consumed as a revitalizing drink in the morning. Normally this drink is sold for US\$2-\$3 per glass by street vendors along the sidewalks (Didiher Chacón., 2002). Eggs are thought to have aphrodisiac properties; they are mixed with wine, brandy, and beer to make "punch," which is sometimes called "front end lifter"

(Haynes-Sutton et al., 1995). The lower part of the body (plastron), which is salted and smoked over the hearth is consumed in soup approximately two or three months later; i.e., during the months when there are no fish (Didiher Chacón., 2002).

#### 4.1.2. Non consumptive value

Hawksbill shell products, sold for very good price say a ring costs US\$17.50, and bracelet cost US\$25. Hawksbill scutes (bony plate made as handicrafts) to Belize City was sold for US\$ 25.00 per pound (Didiher Chacón., 2002). The turtle parts are combined with other metals to make jewels. The costs of these ornamental goods in Caribbean countries is valued for US\$18.00 (Didiher Chacón., 2002). In Honduras, necklace made of hawksbill and black coral, priced at US\$ 18.60 (Didiher Chacón., 2002). A hair clip that is possibly equal to the one found with a value of US\$50 (Didiher Chacón., 2002). Accordingly, value of turtle shell covering a size of 10 cm<sup>2</sup> curved to develop a US\$ 20 (Avg.). The sizes coming to the breeding for nesting ground is 182 Kgs (Avg) for Leatherback turtle which have a curved carapace length CCL 140-200 cm (170 cm) curved carapace width CCW of 106 cm (Avg.). In Anguo wholesale market, around 9 kg of Hawksbill shell was observed in eight stalls. The price was significantly lower than that in Qingping. The average price was USD46 per kg, and the price range was USD37–59 per kg. (Timothy lam 2012, In India, due to thickness and colour of hawksbill sea turtle, it is used for jewellery, ornaments, or as delicate inlays and veneer on furniture. Most of the tortoise shell trade is believed to be from the hawksbill sea turtle (Venkataraman, K. and M.C. John Milton., 2003).

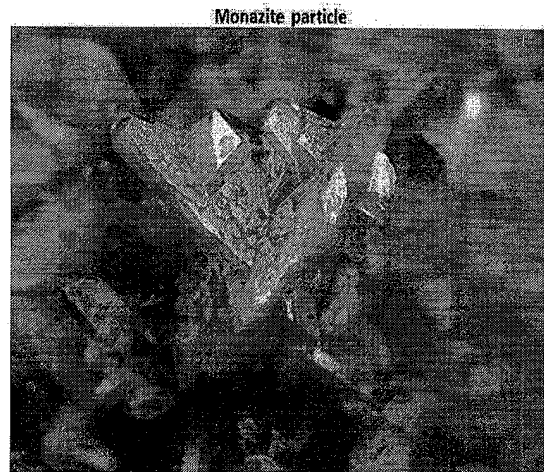
Stuffed turtles are marketed from US\$ 32.50 to \$62.50 Avg. at various sales points from fishermen to shop owners in Central America (Didiher Chacón., 2002). It has been reported that eight carapaces that were marketed after polish were priced from US\$165 to US\$220 each (Elizabeth H. Fleming., 2001). Ottenwalder (1996) reported that large sized stuffed hawksbill turtles were sold for US\$550. The Central American countries use olive ridley turtle oil for respiratory ailments and colds. The oil has strong smell and taste, and it also has



a different colour and viscosity. In Dangriga, Belize, a vendor was selling sea turtle oil cream for skin protection and nourishment and the cream cost US\$ 2.50 each / 100 grams (Didiher Chacón., 2002). A single turtle can provide the right quantity of oil (i.e. between 10 and 20 liters of oil) for coating an entire pirogue (Tripathy and Choudhury 2007). Most turtle oil creams made in the 1930s contained less than 10 per cent of the oil (0.5 g) with many creams being less than 5 per cent (deNavarre & Ruszkowski, 1933, p. 17). Soaps have also been made from oils sea turtles, and the soap was priced from \$1.20/unit (200 gms) in Guatemala (Didiher Chacón., 2002). In addition turtle leather has been used for various purposes. It has been reported that poachers sell turtle leather for \$15 US/turtle (Héctor Trinidad and James Wilson., 2000).

#### 4.1.3. Rare earth minerals

In addition, minerals including silica of beach sands of turtle nesting grounds have significant value. Some minerals are important for National economy, strategic significance and military security. They are non-renewable and are more difficult to find, inventory and develop. Indian resources constitute about 35% of world resources of ilmenite, 10% of rutile, 14% of zircon, and 71.4% of monazite. India meets about 10% of the world requirement of garnet (Rajamanickam et.al., 2004). The minerals do not exist in natural form but it exists as Monazite oar. The monazite with other heavy minerals in the beach sand deposits along the coastal tracts is the major resource for rare earths in India. Atomic Minerals Directorate for Exploration and Research (AMDER), a constituent unit under the DEA has estimated that the 11.93 million tonnes of monazite resources are present in the beach sand mineral placer deposits along the coastal tracts of India. It has been reported that the grade of monazite falls between 1% and 5%. In the coastal States, the monazite distribution in selected beaches of Odisha, Andhra Pradesh, Tamil Nadu, Kerala and West Bengal are 2.41, 3.72, 2.48 and 1.90 and 1.22 tonnes respectively (Lok Sabha unstarred question No.328; answered on 22/07/2015). The list of beaches has been identified by AMDER ([http://www.unece.org/fileadmin/DAM/energy/se/pp/unfc/UNFC\\_ws\\_India\\_Oct2013/5b.2\\_Parihar.pdf](http://www.unece.org/fileadmin/DAM/energy/se/pp/unfc/UNFC_ws_India_Oct2013/5b.2_Parihar.pdf) visited on 11/11/2016). Out of 30 turtle nesting grounds in India, placer sand are deposited in 2 locations of Andhra Pradesh beaches viz., (1) Vamsadhara (R) – Bandaruvanipeta (2) Bahuda (R) – Kapaskuddi. The highest thorium reserves have been witnessed in Andhra Pradesh (3.74 Million Tonnes) in the country. US Department of Energy, office of Science,



prices and certificate price list indicates the value of Monazite sand silica mixture (1%Th) costs \$680/50g

(<http://science.energy.gov/nbl/certified-reference-materials/prices-and-certificates/uranium-thorium-ores-price-list/> pages visited on 11/11/2016).

The demand for monazite sand in the United States was limited to the incandescent gas mantle and the pyrophoric-alloy industries, according to the United States Bureau of Mines. During the war, the price of monazite sand delivered to New York, exclusive of the duty of \$80 a ton, varied from \$25 to \$40 per unit (1 per cent per short ton) of thorium or from \$ 150 to \$240 per ton. Immediately after the war the price was quoted (November, 1919) at \$27 per unit, or about \$162 per ton of the 6 percent (thorium) sand, plus duty. Before the end of 1925 the price had dropped to \$ 120 per ton. After increasing slightly during the latter part of 1928 to \$ 130 per ton, the price dropped in 1929 to \$60 a ton, the lowest figure so far recorded (Ind. Eng. Chem., 1930, 22 (12), pp 1407-1407)

Thorium metal cost \$5000 - \$5300 per Kg (\$150/oz). That's around \$5 million per tonne and that pegs the value of this scam to \$ 974.5 Billion to \$1035 Billion. Current values are as high as \$5,000/kg, because the demand for the refined metal is very low. Projections are that thorium prices will drop to as low as \$10/kg. Once thorium reactors move into production, prices will rise as demand grows (<http://defenceforumindia.com/>).

## 4.2. Regulation services

Sea turtles can emerge onto the beaches to deposit several batches of eggs during the course of a nesting season (Miller, 1997). Sea turtle species reproductive success depends mainly on the availability of terrestrial habitat to lay eggs. Geomorphology of the coastal area, slope of the beach, wave action, storms and the grain size of the sand are the essential characteristics of selection of turtle nesting ground in reproduction (Bird, 1996). For centuries, due to their unique position between ocean and land, the turtle nesting beaches and dunes have provided humans with important services such as raw materials, coastal protection, erosion control, water catchment and purification, maintenance of wildlife, carbon sequestration, and tourism, recreation, education, and research (Edward B. Barbier et al., 2011). Coastal protection is arguably one of the most valuable services provided by sand shore ecosystems especially in the face of extreme storms, tsunamis, and sea level rise. Turtle nesting grounds are the beaches that provide disturbance regulation (protection) function, water quality maintenance function and climate regulation function (Baird and Dann, 2003; Lastra et al., 2010). The turtle nesting ground of the natural beaches protect the life and livelihood of coastal communities from storm and flood damage. The turtle nesting ground beaches protect coastal wetlands by buffering the shorelines. It buffers the coastal wetland from erosion; reduce floodwaters impacts during cyclone and storms impacts. Details of disturbance regulation (protection) function of turtle nesting grounds have been explained in chapter 4.2.1.

Aquifers in lowland and coastal plains are the most important available source of renewable freshwater. Turtle nesting ground are potential source of renewable of freshwater. The turtle nesting ground acts as a buffer to renew the freshwater in the coastal aquifer and limits seawater intrusion into the coastal plains. The turtle nesting grounds acts as a freshwater reservoir and supply water to local communities during drought season. Freshwater stored in coastal aquifers is particularly vulnerable to degradation due to its close proximity to seawater, and the significant water demand associated with coastal areas whereby groundwater is often the main source of drinking water (Giada Felisa et al., 2013). Saltwater intrusion into coastal aquifers is one of the most significant global challenges coastal water resource managers, industries, and agriculture face (Ferguson and Gleeson 2012). Saltwater intrusion shall contaminate the potential water reservoirs of municipal, industrial, and agricultural water resources supplies (Barlow and Reichard 2010). The water storing, replenishing and water quality maintenance function of the turtle nesting ground are given in para 4.2.2.

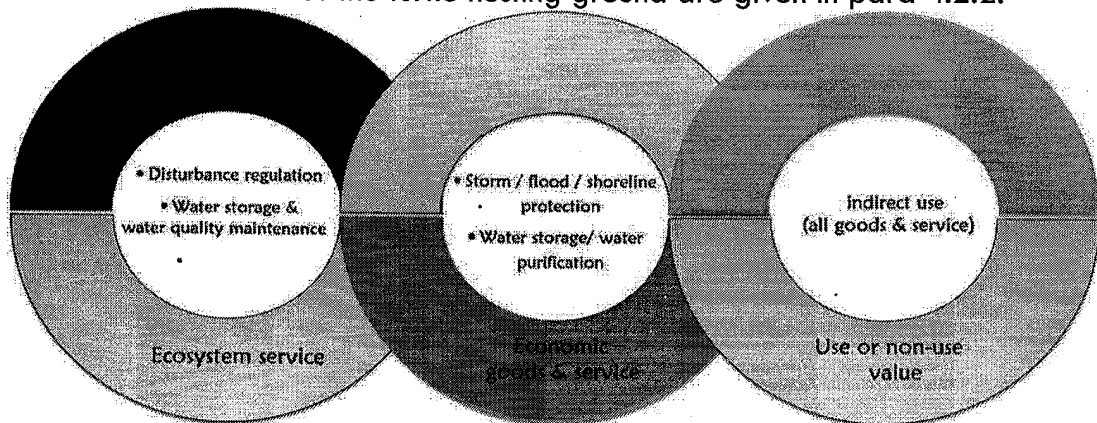


Fig 4

#### 4.2.1. Disturbance regulation function

Turtle nesting grounds are located in high-energy coastlines where the regional coastal slope is low and vulnerable to sea level rise, and flood damage hence the location is very important in coastal protection function (Jeffrey Pompe and Jennifer Haluska., 2011). As waves reach the shoreline of the turtle nesting grounds, they are attenuated by the beach slope and also by the fore dune, a structure immediately behind the beach where sand accumulates in hills or ridges parallel to the shoreline. Beaches vary in their ability to attenuate waves depending on a continuum in their morphology (Edward B. Barbier et al., 2011). Wider beaches provide protection from flooding during storms and high tides to oceanfront property as well as to homes and lots farther removed from the beach. Additionally, wider beaches also enhance the value of recreational activities such as strolling on the beach, sunbathing, and picnicking. Therefore, the expectation is that a wider beach increases the market price of property, since property values capture the flood control and recreational gains associated with a wider beach

(Pompe, J., and J. Rinehart., 1999). Serious erosion of beaches endangers oceanfront property and, in extreme cases, leads to houses toppling into the ocean. Therefore, the expectation is that a wider beach increases the market price of property, since property values capture the flood control and recreational gains associated with a wider beach.

By protecting the impacts from erosion and storm, the property values near to the turtle nesting grounds and beaches have been increased. Landry et al. (2003) found that, for one meter increase of beach width, property values increased by \$233 on Tybee Island in the U.S. state of Georgia. Using hedonic pricing method, Pompe and Rinehart (1995) found that an additional foot of beach for two coastal communities in South Carolina increases the value of developed and undeveloped oceanfront lots by \$554 and \$754, respectively (Pompe, J., and J. Rinehart. 1995). Costanza et al., (1989) used WTP method to estimate storm reduction function of wetlands for \$452/acre/year (in 2009 dollars) which shall be equivalent to beach protection function. Other than the above estimate, hurricane protection function of coastal wetlands range between USD 250 to USD 51 000 ha<sup>1</sup> yr<sup>1</sup>, with a mean of USD 8240 ha<sup>1</sup> yr<sup>1</sup> (median ¼ USD 3230 ha<sup>1</sup> yr<sup>1</sup>) applicable for turtle nesting grounds. By applying damage avoided cost, Costanza et al (2008) has estimated storm protection services of Louisiana coast at (USD) 1700 ha<sup>-1</sup> yr (Robert Costanza et al., 2008).

#### 4.2.2. Water storage and water quality maintenance function

In the coastal aquifers including beaches, gentle to nearly flat ground water table and semi-confined conditions fresh water occurs in shallow depths in discontinuous patches with deeper zones generally saline. Maximum thickness of 600 m and yield 3 - 38 lps (litre per second) from the coastal aquifers in coastal areas of India have been reported by Central Ground Water Board, India (CGWB., 2014). However, considering replenishable and water storing capacity of turtle nesting based on the average annual rainfall of 1200 mm. yr/ ha. 12000 m<sup>3</sup> of water / year can be sustainably used. Managed Aquifer Recharge (MAR) and water banking are of increasing importance to water resources management. MAR can be used to buffer against drought and changing or variable climate, as well as provide water to meet demand growth, by making use of excess surface water supplies and recycled waters (Sharon and Dillon. 2015). Contamination of freshwater bodies caused by saltwater intrusion (SI) is a global issue, affecting water quality, vegetation, and soil conditions along coastal lines. Deterioration of this freshwater resource threatens the sustainability of the water supply of coastal communities and their economic development.

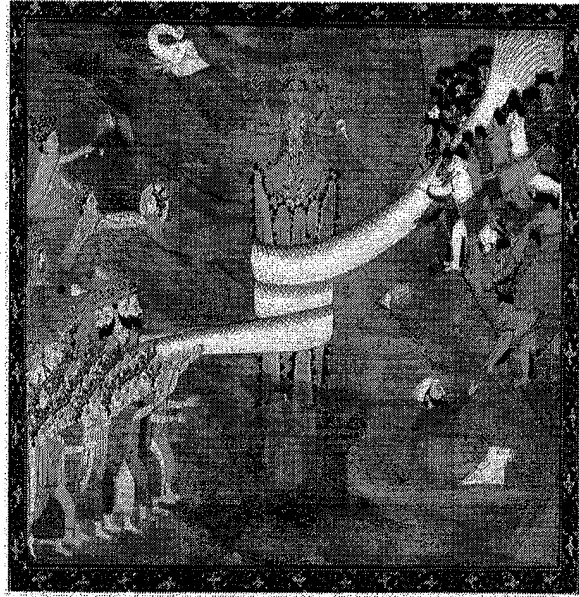
A popular approach among practitioners to assess the benefits of groundwater protection is the avoidance-cost method (Abdalla 1994; Rinaudo et al. 2005). It consists of assessing the cost of actions undertaken by economic agents to cope with groundwater degradation, and pollution in particular. Typical avoidance

costs are those related to the closure and displacement of contaminated drinking water wells (public or private), the installation of sophisticated water treatment units (municipal or domestic) or the purchase of bottled water when groundwater can no longer be used as a safe source of drinking water (Cecile Herivaux and Jean-Daniel Rinaudo., 2016). Other than avoidance cost method, CVM/WTP method has been applied by Belloumi and Matoussi (2002) to estimate the value for preserving groundwater quality from saline intrusion in the Tunisian coastal areas. Accordingly the ground water protection value in the coastal aquifer is 41€/hh/year (currency value of 2013). In New Zealand, economic value of groundwater for abstractive users in the Waimea Plains, Nelson, New Zealand have estimated the ground water value of the plain to be \$ 250 million, and the Waimea Plains 7500 ha area., accordingly, 1 ha ground water economic value is \$33333/ha, and the mean willingness to pay \$1.2 million to maintain groundwater, to keep springs and river flowing and prevent salt water intrusion (White etal., 2001). Because of the importance of this water source, the Meijendel dune (Netherlands) covering an area of 2000 ha has been managed as a nature reserve that serves both drinking water and recreation needs. In 1999, the cost of management was \$3.8 million/year, while the yearly income of the reserve was \$99.2 million/year (Edward B. Barbier etal., 2011). The cost of management of the water source area can be applied apart from Replacement cost method for valuation of water resources in the beaches. Also the economic valuations of in-situ groundwater resource in the Waimea Plains, Nelson, New Zealand were estimated \$ 1.2 million; Groundwater left in-situ would maintain spring flow, maintain groundwater quality and prevent saltwater intrusion into groundwater system. In Lebanon, a CVM method was applied to value the ground water resources for agriculture process and the farmer's willingness to pay estimated that the value is about \$ 134.3 ha. /Yr. (Daniel EL CHAMI etal., 2008).

### 4.3. Cultural services

Turtles are playing an important cultural, traditional, social and economic role in India. Turtle nesting grounds are sandy beaches that are the place for recreation and relaxation. It is a popular place for peacefulness, nature appreciation and play games and sports. Along with the turtle tourism, beach recreation increases the economic value of turtle nesting ground beaches. Turtles have spiritual value in Hindu mythology. According to Hindu mythology, the Indian deity Vishnu was

reincarnated as "Kachhapa" – a turtle, holding the burden of the world on its back (Liz McLellan et al., 2005). In Hinduism, Kurma (Sanskrit: कूर्म; Kurma, lit. turtle) is the second avatar of Vishnu. Three temples in India have special spiritual relationship with turtles and they are popular pilgrimage sites. The temples dedicated to Kurma are located in Kurmai in Chittoor district, Andhra Pradesh, Srikurmam in Srikakulam District, Andhra Pradesh and Gavirangapur in Chitradurg District of Karnataka. In addition the nesting areas offer recreation function (Klein et al., 2004; Noriega et al., 2012).



Kurma Avatar of Vishnu, below Mount Mandara, with Vasuki wrapped around it, churning the ocean of milk during Samudra Manthan, ca.1870.

Among the cultural services, turtle nesting grounds providing recreation function and spiritual function.

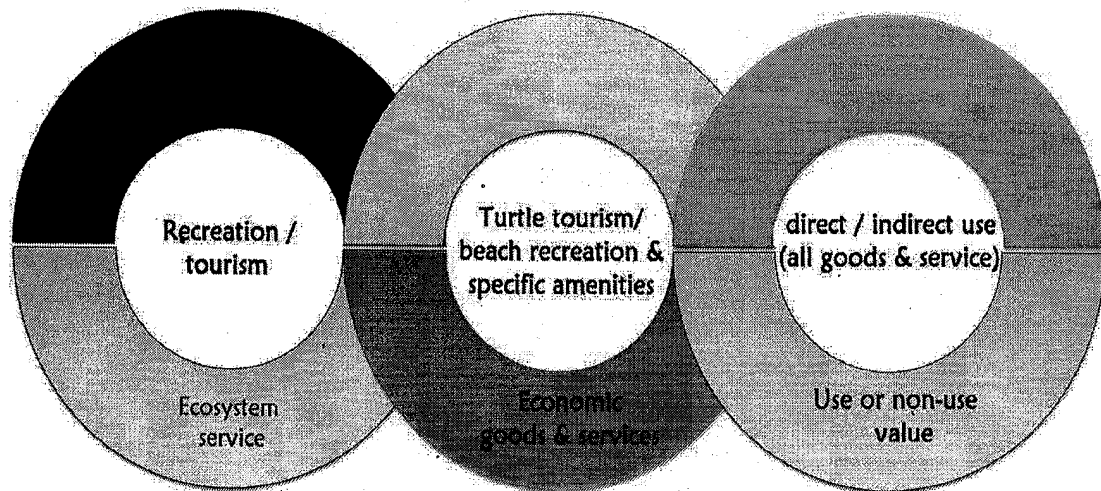


Fig 5

#### 4.3.1. Recreation function

It has been estimated that, all over the world 175,000 tourists / year are participating marine turtle tours (Troëng and Drews, 2004). "It has been estimated that turtle-based tourism activities in Tortuguero, Costa Rica, generated more than US\$6.5 million through tourism services, along the 22 miles (35 km) long "beach-resting turtles (tortugas) was estimated by travel cost method (benefit transfer) souvenir sales and national park fees, in 2002 alone (Liz McLellan et al., 2005)."

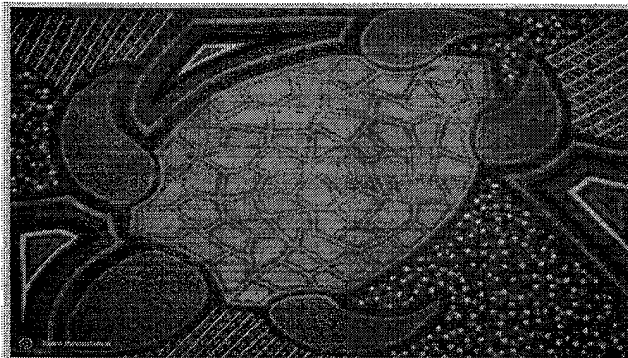
Expenditures for turtle tourism in international market are 26 times higher than whale watching (Hoyt 2001).

Time spent for travelling to and from the turtle nesting area (beaches) is time that could be spent in another productive activity, such as in another leisure activity or at work, and thus represents a real cost that must be accounted for in the price paid by the user in going to the turtle nesting ground. These time costs can be translated into money terms by multiplying time units by the shadow value of leisure time (SVLT), which is a measure of the opportunity cost of a unit of time spent in non-work activities. Using the estimated model, the mean (median) value of a beach day (turtle nesting ground) across the sample is \$28.27 with a standard error of \$5.55 /day (Daniel K. Lew, and Douglas M. Larson., 2005).



School Girls watch sand artists, Puri, Orissa, India

It has been estimated that, gross revenue for nine case studies, where non-consumptive use of marine turtles, such as tourism, is a major revenue generator range from US\$41,147 to US\$6,714,483 yr<sup>-1</sup> per site with an average of US\$1,659,250 yr<sup>-1</sup>. Gross revenue at four sites where marine turtles are one of many attractions varies between US\$3,387-US\$105,997 yr<sup>-1</sup>



Marine turtles play an important role in Australian aboriginal culture. This contemporary design is drawn by Karen Puruntatameri

with an average of US\$40,791 yr<sup>-1</sup> (Troeng and Drews, 2004). Entire beach and adjacent land of Playa Grande Dominican Republic, covering an area of 379 ha annual gross revenue from turtle tourism was estimated at US\$900,460 in 1993 (Gutic 1994). A capitalized commercial value of US\$ 8,002,820 and a capitalized recreational value of US\$ 31,269,296 were estimated for the turtles and estuary resources, which adds up to a present total annual capitalized economic value of US\$ 39,272,116 for these resources. Based on the estimated total economic value, a capitalized economic value of US\$ 13,090,705 was determined for the Tamarindo estuary and a capitalized value of US\$ 34,910 was set for every leatherback turtle which nested at Playa Grande during the 1992 - 1993 season. The capitalized economic value for the whole (local) leatherback turtle population was set at US\$ 26,181,411 for the same season

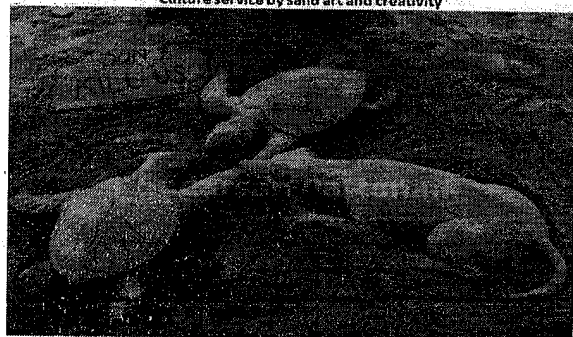
(Jorge Gutic M., 1994). It has been estimated that Vela's beach Ratnagiri (Maharashtra) has 59 ha of turtle nesting grounds. Respondents were asked about their willingness to pay (WTP) for entry fee for recreational access along with turtle nesting habit were randomly offered 20 Rs per visit, Vela's to host almost 3,000 tourists during Turtle Festival seasons, annually 1016 Rs / ha /yr WTP (Pranab mukhopadhyay et.al 2016).

Nice views are important to property owners, ocean front and ocean view property is highly valued than the inland properties (Edwards 1989). In an Island of South Carolina, during 1989, an average plot size of 25993 (SQFT) which are located in the oceanfront are varied between \$22,718 and \$36,373 based on development. The ocean view (not oceanfront) properties located in developed areas were between \$12,780 and \$33,016 however, the inland areas property values have been varied between \$8,081 and \$5,915 (1989\$ estimate) respectively \$143/foot, \$343/foot, \$103/foot and \$549/foot altogether average of 285 \$/ foot (Jwffrey, J. Pompe and James R. Rinehart., 1999). However, Hobbs (1980) used historical erosion rates to evaluate the impact of coastal erosion on shoreline property along the Chesapeake Bay. They found that the value of dwelling decreases by \$0.24 for each square foot of shoreline lost and by \$8.24 per foot of distance lost. Property owners value additional beach width differently, based on the state of development of the property, and the proximity to the beach. The value of an additional foot of beach is \$58.19 for vacant lots and \$80.98 for developed lots. Price differentials exist for property at different locations. An additional foot of beach adds \$194.09 and \$310.84, respectively, to developed and undeveloped oceanfront property (1989\$ estimate) (Jwffrey, J. Pompe and James R. Rinehart., 1999).



Puri, Odisha, India

The turtle nesting ground such as beaches and dunes supply important recreational benefits such as boating, fishing, swimming, scuba diving, walking, beachcombing, collecting seashells, walking, jogging, viewing birds and sunbathing among the numerous recreational and scenic opportunities that are provided by beach and dune access (Edward B.



Culture service by sand art and creativity

Barbier et al., 2011). Values, estimated using both travel cost and contingent valuation methods, range from a low of just \$0.07/trip in Delaware, Maryland, and New Jersey to highs of well over \$70/activity day in California and Florida.

Linwood H. Pendleton (2006) estimated the economic use value of beach recreation at California beaches of 1,100 miles (1770 km) for \$1.5 billion and \$7.5 billion annually and the value of beach recreation in Florida (coastline were 700 miles (1,126 km) was between \$886 million and just under \$9 billion annually.

In addition, turtles provide spiritual service. Daily religious practices bring out the cultural value of a temple, church and mosque (Klamer, Arjo., 1996). Turtle temples support spiritual tourism of coastal regions. Since there is no macro analysis conducted for spiritual tourism of turtles, CVM will be applied to estimate the values of spiritual tourism benefits.

#### 4.4. Supporting service

Supporting services of turtle nesting grounds does not necessarily have direct economic benefit but shall provide for ecosystem functioning, processes, maintenance of integrity, resilience, and so the delivery of other benefits, including soil, mineral, gas formation and water recycling. It is also an essential habitat for plants and invertebrates such as shellfish, birds, rodents, and ungulates (Carter 1990, Pye and Tsoar 1990; Baird and Dann, 2003; Lastra et al., (2010). The turtle species of Olive ridley nesting at Orissa is genetically distinct from other populations, and may even be the ancestral stock of other olive ridley turtle populations in other oceans (Liz McLellan et al., 2005). Hence, the olive ridley population reaching Orissa coast has special biological and scientific importance. Bjorndal and Jackson (2003) reported the presence of green turtles contributes to healthy seagrass beds. The sea turtles' grazing activity in sea grass beds control and stabilize the distribution and diversity of sea grasses and disburse nutrition to other organisms and ecosystems (Thayer & Engel 1982, Thayer et al. 1984). Nesting females are important food for many vertebrates living at the shore. The sea turtles have been attacked and eaten by jaguars, tigers and hyenas. The high protein eggs are an important food for several animals including jackals, mongooses, foxes, opossums, vultures, crows, lizards, snakes, crabs, and ants (Bjorndal & Jackson 2003). The turtle eggs directly influence the growth of vegetation's. of beaches by supplying a concentrated source of high-quality nutrients in the sand (Bouchard, S.S. and Bjorndal, K.A. 2000). Limited nutrients in dune ecosystems, such as nitrogen, phosphorus and potassium, are partially provided to the ecosystem by un-hatched sea turtle eggs. These vital nutrients allow for the continued growth of vegetation and subsequent stabilization of beach dunes (Hannan, et al., 2007).

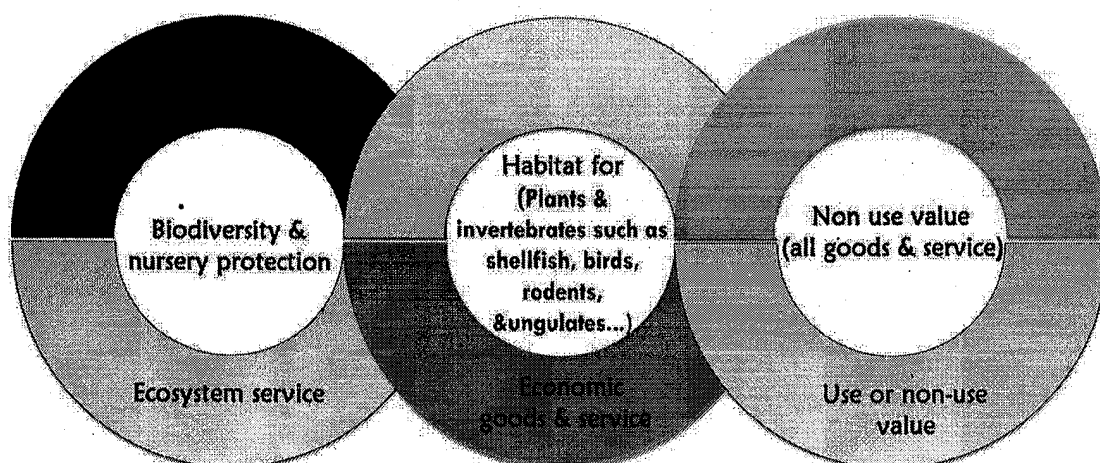


Fig 6

As the turtle nesting grounds have ecological and habitat significance by supporting the sustenance of large number of biological organisms, its existence and protection value is worth to incorporate under supportive service. It was estimated that an average weekly willingness to pay to protect sea turtles in Australia range between Aus \$ 1.97 - 2.67 that the visitors to Mon Repos for the 2000 season would be prepared to pay at least Aus \$250,000 per year to protect sea turtles in Australia for 9 mile (14 km) (Clevo Wilson and Clem Tisdell., 2002). Though, estimation of submissive values of turtle nesting services is difficult to measure in currency. Using CVM, a study in North Carolina in 1991 suggested that respondents would be willing to pay on average US\$33.2 per year to conserve loggerhead turtles (Whitehead 1992). Turtles at Rekawa are under threat due to ongoing illegal activities. Mean willingness to pay (WTP) as an entrance fee to protect at Rekawa sanctuary and two national parks close to Rekawa sanctuary (i.e. Bundala and Yala as the offsite study sites) were (SLR) 106.05 and SLR 145.47. Annual revenue increases under these scenarios respectively to SLR 4.96 million and SLR 7.40 million, across the Rekawa beach of approximately 4 km. (Wasantha Rathnayake 2014). Respondents were asked about their willingness to pay (WTP) for beach nourishment that would result in a wider beach head for improved recreational access along with turtle nesting habit randomly offered \$2.12 per visit, for a total of 1587 visitors surveyed and 3364\$ willingness to pay on the time of survey for the total 5.1 mile (Manoj P. Shrivani., 2003). Using benefit transfer method, S'Abanell beach habitat valued 106 \$/ha/yr (Lozoya et.al 2011).

## 5. Benefit Transfer and meta-analysis of turtle nesting grounds

The use and non-use values of the turtle nesting ground have been estimated at Rs. 45, 68,358/- yr. (Avg.). Out of which recreation function shares Rs. 29, 81,237/- yr. Disturbance regulation and water storage function of turtle nesting ground were estimated at Rs, 1, 17,866/ yr., and Rs. 12, 61,326/- yr., respectively. In addition, consumptive value of Rs. 2,07,929/ ha- was incorporated though there is no consumption value in India but, it has international market value. This value has been applied to the turtle nesting areas of India in relation to the composition of turtle species recorded by various scientific studies. The Total Economic Value from the turtle nesting ground is Rs.7997 Crore. Out of the total benefit from turtle nesting grounds, Andaman and Nicobar islands share Rs.5826 crore followed by Andhra Pradesh Rs. 601 crore.

Table 5.1 Turtle nesting grounds services values - ha / Yr.								
Sl. No	Goods & services	Valuation Methods	Value estimation study	Year & Value	Value given US \$	Value US \$ 2011	Value in Rs. 2011	Avg. TEV value
<b>I Provisioning service</b>								
<b>I.1 Food (consumptive value)</b>								
a.	Meat	Market Pricing	Didiher chacon	2002	23.3	28.3	1391	757/ kg
				23.3 \$ /kg				
b.	Meat	Market Pricing	Elizabeth H. fleming	2001	13.2	16.2	800	
				13.20\$/kg				
c.	Meat	Market Pricing	Didiher chacon	2002	1.32	1.60	79	
				1.32 \$/ kg				
d.	Egg	Market Pricing	Sanchez Et. al	2002	2.89	3.51	172	
				2.89 \$ / dozen				
<b>I.2 Ornamental resource / Products ( non - consumptive value)</b>								
a.	Ring (scutes)	Market Pricing	Didiher chacon	2002	17.5	21.2	1044	9396/9 rings
				17.50 \$/ ring				
b.	Bracelet (scutes)	Market Pricing	Didiher chacon	2002	25	30.3	1492	74600/ 50 bracelet
				25 \$/ bracelet				
c.	Necklace (scutes)	Market Pricing	Didiher chacon	2002	18	21.8	1074	6552 /6 necklace
				18 \$/ ornament				

d.	Necklace (scutes)	Market Pricing	Didiher chacon	2002	18.60	22.60	1110	
				18.60 \$/ ornament				
e.	Hair clip (scutes)	Market Pricing	Didiher chacon	2002	50	60.7	2984	11936/ 4 hair clip
				50 \$/ clip				
f.	Shell	Market Pricing	Didiher chacon	2002	20	24.3	1194	
				20 \$ / clip				
g.	Shell	Market Pricing	Timothy lam et. al	2012	46	46	2260	
				46 \$/ shell				
h.	Polished shell	Market Pricing	Elizabeth H. Fleming	2001	24	29.6	1458	1601 / shell
				24 \$/ shell				
i.	Bony Plate	Market Pricing	Didiher chacon	2002	25	30	1492	
				25 \$/ 1 kg of bony plate				
J.	Stuffed	Market Pricing	Didiher chacon	2002	47.50	58	2835	19612 / turtle
				47.50 \$/ stuffed				
k.	Stuffed	Market Pricing	Ottenwalder	1996	550	741	36390	
				550 \$/ stuffed				
l.	Oil (fat)	Market Pricing	Didiher chacon	2002	2.79	137	27400	41800 / turtle
				2.50 US\$ / 100 gm				
m.	soap(fat)	Market Pricing	Didiher chacon	2002	1.46	72	14400	
				1.20 \$ / 200 gm				
n.	Leather	Market Pricing	Trinidad & James Wilson	2000	15	18.9	930	930/ turtle
				15 \$/turtle				
<b>II Regulating service</b>								
<b>II.1 Disturbance regulation function</b>								
a.	Storm protection	CVM	Costanza et. al.	2009	452 \$/ acre	467	56662	117866/ ha
				452 \$/ acre				
b.				2008			86949	

		Damage avoided cost	Costanza et.al.	1700\$/ha	1700\$ / ha	1,770		
c.		Damage avoided cost	Costanza et. al.	2009 3230\$/ha	3230 \$/ ha	3,337	163927	
<b>II.2 Water storage and water quality maintenance function</b>								
a.	Water quality	CVM	Belloumi & Matoussi	2013 41€/ ha	32 \$/ ha	31	1523	1261326 / ha
b.	Water quality	CVM	White et.al.	2001 160\$/ha	160\$/ ha	197	9677	
c.	Water quality	CVM	Daniel El Chami et.al.	2008 134.3 \$/ ha	134.3 \$/ ha	139	6828	
d.	Water quality/ storage	Replacement cost	Edward B. Barbier et.al.	1999 3.8 million \$/ 2000 ha	1900 \$/ ha	2452	120452	
e.	Water storage	CVM	White et.al.	2001 33333\$/ha	33333 \$/ ha	4116	2019782	
f.	Water storage	Market pricing	Edward B. Barbier et.al.	2000 95.4 million \$/2000 ha	47700 \$/ ha	60180	2956282	
<b>III Cultural services</b>								
<b>III.1 Recreation function</b>								
a.	Turtle tourism	CVM	Gutic	1993 900,460\$ / 379 ha	2376 \$/ ha	3398	166923	2981237 / ha
b.	Recreation	CVM	Gutic (general)	1993 31,269,296\$/ 379 ha	82505 \$ /ha	117978	5795551	

Table 5.2 Turtle nesting ground service value – minimum, maximum, average ha/yr./Rs.			
Service	Minimum value / ha	Maximum value / ha	Average value / ha
<b>I. Provisioning service(Consumptive value)</b>			
Consumption + commercial value (Ornamental resource (bracelet, ring, necklace, hairclip, oil, soap, shell, stuffed)	0 Kerala, West Bengal...	2227434 (Odisha)	207929
<b>II. Regulating service(non- consumptive value)</b>			
Disturbance regulation function	56662	163927	117866
Water storage and water quality maintenance function	1523	2956282	1261326
<b>III. Cultural services</b>			
Recreation function	166923	5795551	2981237
<b>Total Economic value / ha</b>			<b>4568358</b> <b>(Forty Six Lakh)</b>

Table 5.3 Total economic value of turtle nesting grounds services Rs/ Yr.			
S.No	State / Union Territories	Turtle nesting distribution - ha	Total Value of Turtle nesting grounds
1.	Gujarat	399.51	1751596647
2.	Maharashtra	202.20	882154337
3.	Goa	25.54	111672599
4.	Kerala	116.61	508455859
5.	Lakshadweep	992.15	4326197888
6.	Tamil Nadu	263.08	1147441668
7.	Pondicherry	15.79	68870225
8.	Andhra Pradesh	1374.69	6013858517
9.	Odisha	872.93	5750762983
10.	West Bengal	265.48	1157610090
11.	Andaman & Nicobar	13344.06	58261309277
<b>Total</b>		<b>17872.05</b>	<b>79979930092</b> <b>(7997Crore)</b>

## 6 Conclusion

Turtle nesting grounds are on land, and they are typically sandy beaches. Turtles have various ecological roles, sea turtles contribute to tourism activities, due to their charismatic nature, yielding great economic benefits. Quantification of the economic consequences of marine turtle use value and conservation could contribute significantly to our understanding of use options and their ecological impacts, and hence further the process of defining adequate management policies. Expressing the economic value of various uses and benefits of turtle nesting grounds shall be a tool to raise awareness and convey its (relative) importance to general public and policy makers.

The use and non-use values of the turtle nesting ground has been estimated at Rs. 45, 68,358 /- yr. /ha. Out of which consumptive value shares of Rs2, 07,929/ ha, has been incorporated in this study though there is no consumption in India but, it has international market value. The Total Economic Value of turtle nesting ground of India is Rs.7997 Crore. Out of the total benefit from turtle nesting grounds, Andaman and Nicobar islands share Rs.5826 crore followed by Andhra Pradesh Rs. 601 crore. The monetary values could be used in National, State and regional policies to integrate environment and economics.

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## Annexure – 1

Turtle nesting grounds – Services, Functions & Methods							
Sl. No	Year	Value estimation study	Location	Ecosystem Service & Sub-Service		Methods	
1	2002	Didiher chacon	Caribbean (Grand Cayman island)	Provisioning service	Food	Meat	Market Pricing
2	2001	Elizabeth H. Fleming	British Virgin Islands			Meat	Market Pricing
3	2002	Didiher chacon	Guatemala (Livingston)			Meat	Market Pricing
4	2002	Sanchez et al	Guatemala			Egg	Market Pricing
5	2002	Didiher chacon	Guatemala			Drink/ juice	Market Pricing
6	2002	Didiher chacon	Belize (Dangriga)		Ornamental resource / Products	Ring (scutes)	Market Pricing
7	2002	Didiher chacon	Margarita Island, Venezuela			Bracelet (scutes)	Market Pricing
8	2002	Didiher chacon	Belize City			Bony Plate (scutes)	Market Pricing
9	2002	Didiher chacon	Caribbean			Ornament (scutes)	Market Pricing
10	2002	Didiher chacon	Honduras			Ornament (scutes)	Market Pricing
11	2002	Didiher chacon	Panama			Hair clip (scutes)	Market Pricing
12	2012	Timothy lam et. al	China (Anguo, Hebei)			Shell (carapace)	Market Pricing

13	2001	Elizabeth H. Fleming	Central America	Regulating service		Polished shell (carapace)	Market Pricing
14	2002	Didiher chacon	Caribbean			Stuffed	Market Pricing
15	1996	Ottenwalder	Caribbean			Stuffed	Market Pricing
16	2002	Didiher chacon	Dangriga, Belize			Oil (fat)	Market Pricing
17	2002	Didiher chacon	Guatemala			soap(fat)	Market Pricing
18	2000	Trinidad & James Wilson	Mexico			Leather	Market Pricing
19	2003	Landry et.al.	U.S. state of Georgia (Tybee Island)		<b>Disturbance Regulation</b>	Storm protection	Hedonic pricing
20	1995	Pompe & Rinehart	South Carolina			Storm protection	Hedonic pricing
21	2009	Costanza et. al.	Global			Storm protection	Contingent valuation
22	2009	Costanza et. al.	Global			Hurricane protection	Damage avoided cost
23	2008	Costanza et.al.	Louisiana coast			storm protection	Damage avoided cost
24	2013	Belloumi & Matoussi	Central Eastern Tunisia		<b>Water storage &amp; water quality maintenance</b>	Water quality	Contingent valuation
25	2001	White et.al.	waimea plains nelson			Water quality	Contingent valuation
26	2008	Daniel El Chami et.al.	Lebanon			Water quality	Contingent valuation
27	1999	Edward B. Barbier et.al.	Netherlands (Meijendel dune)			Water quality	Replacement cost
28	2001	White et.al.	Waimea plains nelson			Water storage	Contingent valuation
29	2000	Edward B. Barbier et.al.	Netherlands (Meijendel dune)			Water storage	Market pricing

30	1993	Gutic	Costa Rica (Tamarindo)	Cultural	Recreation	Turtle tourism	Contingent valuation
31	1993	Gutic	Costa Rica (Tamarindo)			Recreation	Contingent valuation

## Annexure – 2

Turtle nesting grounds Total Economic Value service & patch wise valuation						
Sl. No	Patches in coastal areas	Turtle Nesting Grounds -ha.	Provisional Service	Regulating Service	Cultural Service	Total Economic Value
1	Lamba Sethala Mata Mandir	32.55	829660	44887147	97027262	142744069
2	Mithapur Mojap	12.57	657697	17332868	37466422	55456987
3	Sethala Mata Mandir Harshad	13.99	885678	19288065	41692739	61866482
4	Okhamadhi Kharakhetar	33.41	444046	46076819	99598837	146119702
5	Mojap Shivrajpur	13.14	859623	18124237	39177030	58160891
6	Kharakhetar Kuranga	25.57	563899	35260804	76219128	112043832
7	Navadra Lamba	40.44	923458	55772227	120556259	177251945
8	Shil Lohej	50.82	1135284	70089847	151504972	222730105
9	Mangrol Mangrol Bara	20.57	1011003	28370671	61325539	90707213
10	Maktapur Mangrol	6.98	0	9623578	20802156	30425734
11	Ratadi-Kantela	47.43	800999	65410729	141390674	207602402
12	Kantela Kuchhadi	50.55	1011003	69714095	150692754	221417852
13	Navibandar Ratiya	51.52	428413	71053352	153587667	225069432
	<b>Gujarat</b>	<b>399.51</b>	<b>9550763</b>	<b>551004442</b>	<b>1191041443</b>	<b>1751596647</b>
14.	Kolthare	5.09	64754	7024007	15182968	22271729
15.	Sandkhol	4.32	0	5955759	12873864	18829624

16.	Velas	8.59	226639	11853009	25621255	37700903
17.	Guhagar	48.91	45328	67454039	145807456	213306823
18.	Kelashi	17.00	10684	23443598	50675266	74129549
19.	Dabhol	6.00	64754	8268391	17872808	26205953
20.	Murud Janjira	2.79	0	3848443	8318726	12167169
21.	Diveagar	73.70	32376	101643769	219711371	321387517
22	Harihareshwar	13.04	32377	17984171	38874266	56890814
23	Maral	7.16	0	9871220	21337455	31208675
24		1.52	0	2096229	4531171	6627400
25		6.64	0	9156821	19793221	28950042
26		0.08	0	108018	233489	341507
27		7.37	0	10164730	21971901	32136631
	<b>Maharashtra</b>	<b>202.20</b>	<b>476912</b>	<b>278872205</b>	<b>602805220</b>	<b>882154337</b>
28	Mandrem (Nearby Junos Vaddo village)	2.28	0	3149344	6807567	9956912
29	Morjim (Morjim South)	3.11	0	4295191	9284409	13579601
30	Mandrem	2.46	48565	3392651	7333493	10774709
31	Morjim (Morjim North)	0.86	64754	1192420	2577514	3834688
32	Agonda	11.90	97131	16406975	35465027	51969133
33	Galgibaga	4.92	107815	6784495	14665244	21557554
	<b>Goa</b>	<b>25.54</b>	<b>318266</b>	<b>35221077</b>	<b>76133256</b>	<b>111672599</b>
34	Kolavipalam	70.86	0	97726504	211243879	308970383
35	Alungal	9.25	0	12756349	27573899	40330249
36	Thaikkadappu ram	20.32	0	28022601	60573158	88595759
37		16.18	0	22317770	48241697	70559468
	<b>Kerala</b>	<b>116.61</b>	<b>0</b>	<b>160823225</b>	<b>347632634</b>	<b>508455859</b>
38	Suheli Valliakara	58.33	0	80446890	173892573	254339463
39	Karingikuppu	24.20	0	33378239	72149811	105528050
40	Tinnakara	52.36	0	72220561	156110687	228331248
41	Minicoy group	513.16	0	707739684	1529837567	2237577252
42	Agatti	344.10	0	474579415	1025842459	1500421875

	Lakshadweep	992.15	0	1368364791	2957833097	4326197888
43	Marina - Neelankarai (Urrur kuppam-kaveri Nagar)	67.69	123153	93360970	201807419	295291541
44	Marina - Neelankarai (Marina - Srinivasa Puram)	86.06	156572	118695379	256569828	375421779
45	(Nearby Mandalpattu village)	3.95	0	5451590	11784061	17235651
46	Alikuppam	44.17	0	60916932	131676960	192593892
47	Neelankarai - Uthandi	47.74	19426	65844891	142329150	208193467
48	Marina - Neelankarai Kuppam)	13.46	0	18568341	40136997	58705337
	<b>Tamil Nadu</b>	<b>263.08</b>	<b>299151</b>	<b>362838102</b>	<b>784304415</b>	<b>1147441668</b>
49	Nearby village Nallavadu	12.34	0	17017092	36783844	53800936
50	Nearby village Panithittu	3.46	0	4766376	10302913	15069289
	<b>Pondicherry</b>	<b>15.79</b>	<b>0</b>	<b>21783467</b>	<b>47086758</b>	<b>68870225</b>
51	Gautami Godavari - Nilarevu	360.94	0	497805506	1076047565	1573853071
52	Hope Island	61.72	0	85126714	184008397	269135110
53	Sacremnt Island	74.36	12076620	102559440	221690668	336326728
54	Krishna - Lankavanidib	172.53	337368	237957824	514365419	752660611
55	Elichetladibba	346.96	991704	478529034	1034379886	1513900625
56	Pennaru - Mypadu	63.30	215954	87308129	188723705	276247788
57	Sriharikota - Durgarajupat	88.67	259016	122299330	264360066	386918412
58	Bahuda - Kapaskuddi	85.24	1295079	117558446	254112255	372965781
59	Vamsadharda -	37.39	1780735	51564761	111461474	164806970

60		10.03	0	13838872	29913860	43752732
61	Kunduvanipeta - Nagavali	46.83	1618850	64588646	139613674	205821170
62	Muthiyavanipalem	26.70	1036064	36827589	79605864	117469517
	<b>Andhra Pradesh</b>	<b>1374.69</b>	<b>19611391</b>	<b>1895964292</b>	<b>4098282834</b>	<b>6013858517</b>
63	Digha (Nearby Digha village)	14.89	0	20532820	44383381	64916202
64	Rushikulya	121.93	539616774	168167102	363507030	1071290907
65	Bahuda - Kapaskuddi	72.69	1780734	100248611	216695621	318724966
66	Akashdia Island (Devi)	314.45	323769984	433680844	937436831	1694887658
67	Gahirmatha (Wheeler, Ekakula, Habalikati)	154.11	1079233345	212546963	459437751	1751218059
68	Agarnasi	127.88	0	176373960	381246828	557620788
69	Pentha	66.99	0	92391839	199712564	292104403
	<b>Odisha</b>	<b>872.93</b>	<b>1944400837</b>	<b>1203942140</b>	<b>2602420006</b>	<b>5750762983</b>
70	Dadanpatra	51.10	0	70476589	152340948	222817537
71	Junput	146.88	0	202572979	437878165	640451144
72	Digha (Jagai Basan-Digha)	50.14	0	69149960	149473328	218623288
73	Shankarpur	17.36	0	23949438	51768682	75718121
	<b>West Bengal</b>	<b>265.48</b>	<b>0</b>	<b>366148967</b>	<b>791461123</b>	<b>1157610090</b>
74	Andaman & Nicobar	13344.06	75480895	18404021489	39781806893	58261309277
	<b>Andaman &amp; Nicobar</b>	<b>13344.06</b>	<b>75480895</b>	<b>18404021489</b>	<b>39781806893</b>	<b>58261309277</b>
	<b>Total TNG value</b>	<b>17872.05</b>	<b>2050138215</b>	<b>24648984198</b>	<b>53280807679</b>	<b>79979930092</b>

**Annexure – 3**

State wise Total economic value of turtle nesting grounds services					
Sl.No	State / Union Territories	Provisioning Service value	Regulating Service value	Cultural Service value	Total economic value
1.	Gujarat	9550763	551004442	1191041443	1751596647

2.	Maharashtra	476912	278872205	602805220	882154337
3.	Goa	318265	35221077	76133256	111672599
4.	Kerala	0	160823225	347632634	508455859
	Lakshadweep	0	1368364791	2957833097	4326197888
5.	Tamil Nadu	299150.8078	362838102	784304415	1147441668
6.	Pondicherry	0	21783467	47086758	68870225
7.	Andhra Pradesh	19611391	1895964292	4098282834	6013858517
8.	Odisha	1944400837	1203942140	2602420006	5750762983
9.	West Bengal	0	366148967	791461123	1157610090
10.	Andaman & Nicobar	75480895	18404021489	39781806893	58261309277
	<b>Total</b>	<b>2050138215</b>	<b>24648984198</b>	<b>53280807679</b>	<b>79979930092</b>

#### Annexure - 4

Provisioning Service (Function)	Average value 2011Rs	Utilization pattern of turtle
Meat	757/ kg	Olive ridley, green turtle, hawksbill turtle, leather back
Fat (oil, soap)	41800 / turtle	Olive ridley, green turtle, hawksbill turtle
Stuffed	19614/ turtle	Olive ridley, green turtle, hawksbill turtle
Egg	172/ dozen	Olive ridley, green turtle, hawksbill turtle, leather back
Shell (carapace)	1601/ turtle	Olive ridley, green turtle, hawksbill turtle
Shell - Ornamental resource (bracelet, ring, necklace, hairclip)	102484/ turtle	hawksbill turtle
Skin (Leather)	930/ turtle	leather back

Note: average weight and eggs / year: Olive ridley - 36 kg /204 eggs; Green turtle - 136 kg/ 300 eggs, Hawksbill - 55 kg/ 216 eggs; Leatherback - 499 kg/ 276 eggs (Fisheries Department); meat-75% weight taken in account, fat - 15 litre / turtle converted to approximate amount used in soap and oil.

Turtle	Average value / turtle 2011Rs	Function includes in Average value / turtle
Olive ridley	32377	livelihood consumption (meat, egg) + commercial value (oil, soap, shell, stuffed)
Green turtle	52110	livelihood consumption (meat, egg)+ commercial value (oil, soap, shell, stuffed)
Hawksbill turtle	86348	livelihood consumption (meat, egg) +

		commercial value( Ornamental resource (bracelet, ring, necklace, hairclip), oil, soap, shell, stuffed)
Leather back	288193	livelihood consumption (meat, egg) + commercial value (leather)

## **Survey of 45 hectares area at Kasarkod Tonka in Honnavar Taluk of Uttar Kannada district of Karnataka on the issue of Turtle nesting ground**

### **Introduction**

Honnavar is small coastal town located at Uttara Kannada district in Karnataka and is popular amongst tourists due to its scenic beauty and the coastal lifestyle. It is located along the banks of rivers Sharavati and Badagani before the joining the Arabian Sea in the west coast of India. Honnavar is located approximately 165 kilometers from Goa and 460 km from the State Capital, Bengaluru.

The Government of Karnataka proposed to develop the Honnavar Port in the land at Kasarkod Tonka in Honnavar Taluk of Uttar Kannada District. The proposed port is situated on the left bank of river Sharavati at the confluence of both Sharavati and Badagani with the Arabian Sea.

### **Present Issue**

The Government of Karnataka has proposed to develop Honnavar Port in the port land at Kasarkod Tonka in Honnavar Taluk of Uttar Kannada District. In this regard, M/s Honnavar Port Pvt. Ltd. (HPPL), Bengaluru were sanctioned 40,000 sqm of port land in the 1<sup>st</sup> phase and 93 acres of port land was reserved for the project in 2010. Work commenced at the site in 2019 by the company after obtaining necessary statutory clearances. Honnavar Taluka Hasi Meenu Vyaparasthara Sangha filed a W.P. No. 4039/2021 (PIL) in Hon'ble High Court of Karnataka, Bengaluru, praying for stoppage of construction of the port. According to the petitioner, the entire area of 45 hectares on which the project is to come up is a turtle nesting ground.

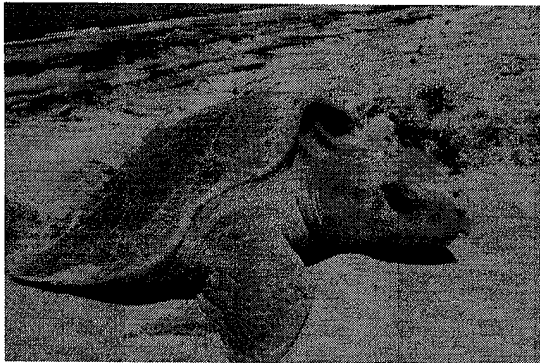
On 13.07.2021, upon hearing the Hon'ble High Court of Karnataka issued a Daily Order directing NCSCM to carry out a survey of the 45 hectares area at Kasarkod Tonka in Honnavar Taluk of Uttar Kannada District of Karnataka to verify the issue of turtle nesting ground. A report has to be submitted in this regard by NCSCM before the next hearing which is on 19<sup>th</sup> August, 2021.

### **Marine turtles in India**

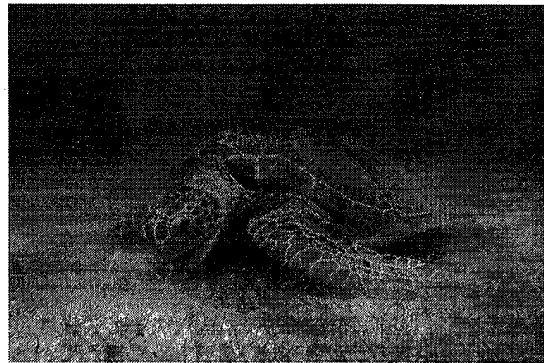
Turtles are both freshwater and marine reptiles and capable of amphibious life (Both on land and water) although, marine turtles come to land only for laying eggs in the nests created on sandy shores. India reports 5 species of marine turtles that inhabit the coastal waters. In order of their abundance, the listed species are

1. Olive Ridley - *Lepidochelys olivacea*
2. Green turtle - *Chelonia mydas*
3. Hawksbill - *Eretmochelys imbricata*

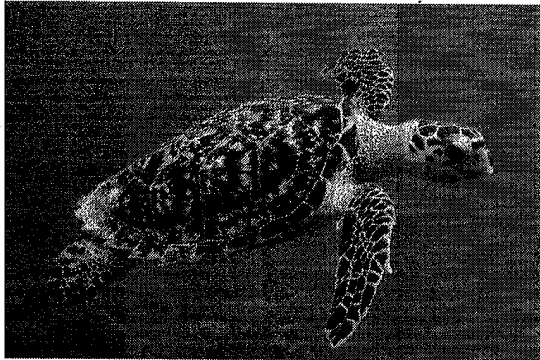
4. Loggerhead - *Caretta caretta*
5. Leatherback - *Dermochelys coriacea*



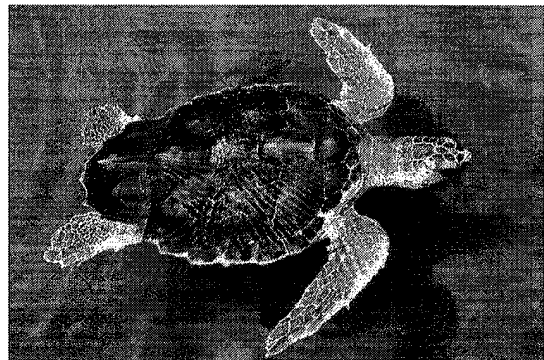
Olive Ridley Turtle



Green Turtle



Hawksbill Turtle



Loggerhead Turtle



Leatherback Turtle

Fig. 1. Marine turtles of India (Image courtesy: Wikimedia commons)

### Types of Turtle Nesting

There are two types of nesting in turtles i) Mass nesting and ii) sporadic nesting. The mass nesting of turtles is termed "arribadas" (Spanish for arrival). Arribadas are also referred to as rookeries. **The Olive Ridley species have a unique social behavior in that they have communal/ mass nesting or arribada.**

During the nesting seasons, there are a number of arribada beaches where thousands of females congregate on sandy beaches that are 2–6 km long on three or four continuous

evenings<sup>1</sup>. In India, the arribadas are located at Gahirmatha and Rushikulya in Odisha with an estimated over 100,000 nests per year and, more recently, a new mass nesting site was discovered in the Andaman Islands, with more than 5,000 nests reported in a season<sup>2</sup>. Solitary nesting is witnessed sporadically along the entire coast of India.

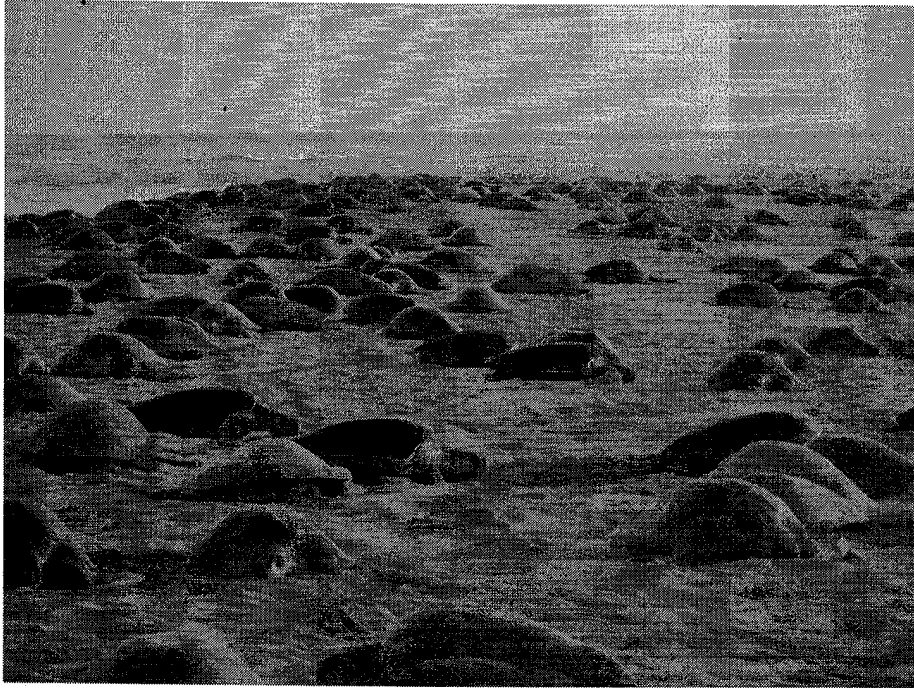


Fig. 2. Mass nesting of turtles at Gahirmatha marine sanctuary, Odisha  
(Image courtesy: Bijay Kumar)

### Nesting Beaches in Coastal Karnataka

Sporadic nesting of Olive Ridley turtles is reported from the coast of Karnataka. The oldest comprehensive study dates back to 2002, a study jointly undertaken by Government of India (GoI) and UNDP where, a baseline was prepared for the nesting beaches along the coast of Karnataka.

#### (a) GOI – UNDP Sea Turtle Project<sup>3</sup>

The report has located major turtle nesting sites but no geocoordinates is available pertaining to the exact locations. Out of 13 sites identified in the Uttara Kannada District, Kasarkod beach was designated as an "*occasional nesting site*". The report highlights unequivocally that mass nesting in rookeries (arribadas) like those in Odisha does not occur in Karnataka. The nesting season was observed to be from September to January.

<sup>1</sup> Paladino, F.V., and Morreale. S.J. (2001). Sea Turtles in Encyclopedia of Ocean Sciences (Second Edition)

<sup>2</sup> NOAA. 2021. Olive Ridley Turtle. <https://www.fisheries.noaa.gov/species/olive-ridley-turtle> accessed on 11 August 2021

<sup>3</sup> Sharath B.K. (2002) Marine turtle nesting along the coast of Karnataka – a status survey. GOI – UNDP Sea turtle project, 25 p.

**(b) WWF - India Report<sup>4</sup>**

The WWF 2013 report has provided an overview of the status of sea turtle nesting in Karnataka. It has mentioned Kasarkod as a potential nesting site with new nesting areas (the co-ordinates 14.26028 N, 74.43256 E). The report highlighted the decrease in turtle nesting over the years and the need for a detailed research to create a database on nesting. Fourteen beaches were identified from Uttara Kannada, thirteen from Udupi and six from Dakshina Kannada as potential nesting sites with new nesting areas (Table 1).

**Table. 1.** List of Potential Nesting Sites in Dakshin Kannada with New Nesting Areas (WWF-India Report, 2013)

S. No.	Name of nesting the beach	Beach Type	Co-ordinates
1.	Tilmati	Small black sand	N14.90019; E74.09111
2.	Devbag	Long sandy beach	N14.84525; E74.11454
3.	Amdalli (S)	Sandy	N14.75938; E74.17922
4.	Belekeri	Long sandy beach	N14.70572; E74.26435
5.	Kini	Sandy	N14.70579; E74.26435
6.	Manjaguni	Sandy	N14.60259; E74.29021
7.	Gangavali	Sandy	N14.59030; E74.29435
8.	Kagal	Sandy	N14.49140; E74.36355
9.	Dhareshwara	Sandy	N14.37469; E74.40492
10.	Haldipur	Sandy	N14.34576; E74.43485
11.	Kasarkod	Sandy	N14.26028; E74.43256
12.	Talmakki	Sandy	N14.12745; E74.48281
13.	Bailoor	Sandy	N14.05862; E74.49700
14.	Bengre (Bhatkal)	Sandy	N14.05865; E74.49699

**(c) Dakshin - EMPRI Report<sup>5</sup>**

The Dakshin-EMPRI Report of 2016 is a comprehensive document concerning sea turtle breeding along the Karnataka coast. According to the report, Olive Ridley nests are observed to be along the entire coastline of Honnavar Division and seven major nesting beaches (Figure 3) have been identified. These beaches are mostly sandy with small rocky patches. The seven nesting beaches are located at Gangavali, Kagal, Dhareshwara, Haldipur, Kasarkod, Talmakki, and Bengre (Bhatkal). According to the report, the nesting season begins as early as October and lasts till April every year. The peak nesting season in Honnavar is for three months beginning from December to February. The report has also provided beach profiles of Haldipur, Kasarkod and Manki beaches.

<sup>4</sup> Ravi Pandit and Rakesh Soans (2013) Marine Turtle Habitats and Nesting Status in Karnataka. In. Annie Kurian (Ed.) (2013) Marine Turtles Along the Indian Coast - Distribution, Status, Threats and Management Implications, WWF-India, pp. 113-126

<sup>5</sup> Anon (2016) Establishing a baseline for monitoring sea turtle nesting sites on the Karnataka coast through coastline mapping. Final Report. Dakshin & EMPRI, 93 p.