

IN THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

INDEX
IN
COUNTER AFFIDAVIT
(ON BEHALF OF RESPONDENT NO. 01)
IN
ORIGINAL APPLICATION NO. 709 OF 2023

IN THE MATTER OF:

Lalji Kumar,

Address: Village Pipargao, District Hardoi, Uttar Pradesh-241202
(Phone 7303669088), Email: ayushzera777@gmail.com.

..... Applicant

Versus

DIVISIONAL FOREST OFFICER- NAINITAL FOREST DIVISION,
office Address,- Tallital, near zoo, Nainital, Uttarakhand-
263001,(Phone- 7579418745), Email-dfonainital@gmail.com &
Others

..... Respondents

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Date: 18-07-2024.

(Chandra Shekhar Joshi)
Divisional Forest Officer, Nainital,
Applicant/Respondent

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1. DIVISIONAL FOREST OFFICER- NAINITAL FOREST DIVISION,
office Address,- Tallital, near zoo, Nainital, Uttarakhand-263001,
(Phone- 7579418745), Email-dfonainital@gmail.com
2. DISTRICT MAGISTRATE OF NAINITAL,
office Address: Collectorate office, Nainital Uttarakhand-236001
Phone- 05942235684 (O), Email-dm-nai-ua@nic.in.
3. COMMISSIONER AND SECRETARY BOARD OF REVENUE, UTTARAKHAND.
Office Address: Rajswa Parisad, Ring Road, Ladpur, Dehradun,
Uttarakhand-248195, Phone;01335-2669415,
Crc.ddn99@gmail.com
4. STATE OF UTTARAKHAND THROUGH CHIEF SECRETARY, GOVERNMENT OF UTTARAKHAND.



5. PRINCIPAL SECRETARY, REVENUE DEPARTMENT,
UTTARAKHAND.
6. SURVEYOR GENERAL OF INDIA.

..... Respondents

Affidavit on behalf of Respondent No. 01,
Divisional Forest Officer, Nainital Forest
Division Nainital, District Nainital.

I, Chandra Shekhar Joshi Aged about 43 years, S/o Late Prayag Dutt Joshi, Presently posted as, Divisional Forest Officer, Nainital Forest Division Nainital, Uttarakhand do hereby solemnly affirm on oath and state as under:

- 1- That in my abovementioned official capacity, Presently posted as, Divisional Forest Officer, Nainital Forest Division Nainital, Uttarakhand and he has been arrayed as Respondent No. 01 in instant Original Application. The deponent is filling this Affidavit on his own behalf before this Hon'ble Tribunal in instant Original Application.
- 2- I state that I have read and understood the contents of the said Application and its annexures and in reply thereto I state as under:

BRIEF FACT

- 3- That the instant Original Application has been preferred by the petitioner before this Tribunal with a grievance that the forest land surrounding the Revenue Village Gethiya, District Nainital being encroached. The prayer of Original Application is being quoted as under-



1. *Order the authorities to demarcate the boundary line between the revenue and forest land precisely and scientifically by establishing the boundary pillars with precise geo coordinates according to the approved and notified maps of revenue.*
 2. *Order the authorities to clear the encroachment on the aforesaid forest land and take possession of the encroached forest land.*
- 4- That the instant Original Application was listed before this Hon'ble Tribunal on 28-11-2023 and the Hon'ble Tribunal was pleased and constituted a Joint Committee comprising of representative of Uttarakhand Pollution Control Board (UKPCB), Divisional Forest Officer, Nainital and District Magistrate, Nainital and directed the same to undertake visits to the site, look into the grievances of the applicant, associate the applicant and concerned persons, verify the factual position and suggest appropriate remedial action. The Hon'ble Tribunal further nominated Uttarakhand Pollution Control Board as Nodal Agency for coordination and compliance. The operative part of order dated 28-11-2023 is being quoted as under-

"4. In view of the averments made in the application, we also consider it appropriate that a Joint Committee be constituted to verify the factual position and suggest appropriate remedial action. Accordingly, we constitute a Joint Committee comprising of representatives of Uttarakhand Pollution Control Board (UKPCB), Divisional Forest Officer (DFO) and District Magistrate



(DM), Nainital and direct the same to undertake visits to the site, look into the grievances of the applicant, associate the applicant and concerned persons, verify the factual position and suggest appropriate remedial action. UKPCB will be the nodal agency for coordination and compliance.

5. Factual and Action taken Report may be submitted through UKPCB within two months through E-filing portal (not through E-mail) in the form of searchable PDF/OCR Support PDF (not in the form of Image PDF).

6. List for further consideration on 15.02.2024.”

- 5- That in compliance of order dated 28-11-2023 passed by this Hon'ble Tribunal in instant Original Application the Sub-District Magistrate, Nainital (Representative of District Magistrate, Nainital), Sub-Divisional Forest Officer, Nainital (Representative of Divisional Forest Officer, Nainital) and Regional Officer, Uttarakhand Pollution Control Board, Nainital were present for Inspection of said land on 06-01-2024 with concerned Sub-Ordinate Officers. The petitioner Lalji Kumar was not present on the said Inspection while he was informed by Nodal Agency (Uttarakhand Pollution Control Board) UKPCB. It was found that there is a difference between the Revenue Records and Records of Forest Department regarding said land. The Joint Inspection Committee further suggested that as per the Govt. order dated 09-10-2023, the matter should be referred to standing committee constituted under the Chairmanship of District Magistrate, Nainital. The Compliance report was submitted vide letter no. UKPCB/ROH/Writ/24/2740-1207 dated 03-02-2024 by Regional



Officer, Uttarakhand Pollution Control Board, Haldwani, Nainital before this Hon'ble Tribunal.

- 6- That the instant Original Application was listed before this Hon'ble Court on 15-02-2024 and the Hon'ble Tribunal was pleased to take the compliance report dated 03-02-2024 on record. The Hon'ble Tribunal also directed to implead State of Uttarakhand through Chief Secretary, Govt. of Uttarakhand, Principal Secretary, Revenue Department, Uttarakhand and Surveyor General of India as respondent no. 04 to 06 in instant matter. The Hon'ble Tribunal directed respondent no. 04 to 06 to file their responses in the matter. The operative part of order date 15-02-2024 is being quoted as under-

3. In view of the facts and circumstances of the case we consider it appropriate to have response of (1) State of Uttarakhand through Chief Secretary, Government of Uttarakhand, (2) Principal Secretary, Revenue Department, Uttarakhand, (3) Surveyor General of India, who stand impleaded as respondents No. 4 to 6.

4. The Registry is directed to amend memo of parties and issue notices to respondents No. 4 to 6 requiring them to file their reply/response along with copies of all relevant revenue documents including revenue record, maps etc. pertaining to the land in question within one month at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.



5. List for further consideration on 08.04.2024.

- 7- That the instant Original Application was listed on 08-04-2024 before this Hon'ble Tribunal and the Tribunal was pleased and direct Principal Secretary, Revenue Department, Government of Uttarakhand, Principal Chief Conservator of Forest (HoFF), Government of Uttarakhand and Surveyor General of India to file their responses/respective replies by way of the affidavits. The Hon'ble Tribunal further directed that the officers duly authorised by the Principal Secretary, Revenue Department, Government of Uttarakhand, the Principal Chief Conservator of Forest (HoFF), Government of Uttarakhand and the Surveyor General of India through VC before this Tribunal on the next date of hearing to be essential for assisting this Tribunal in just and proper adjudication of the questions involved in the case. The operative part order dated 08-04-2024 is being quoted as under-

11. In view of the facts and circumstances of the case we also consider presence of officers duly authorised by the Principal Secretary, Revenue Department, Government of Uttarakhand; the Principal Chief Conservator of Forest (HoFF), Government of Uttarakhand and the Surveyor General of India through VC before this Tribunal on the next date of hearing to be essential for assisting this Tribunal in just and proper adjudication of the questions involved in the case. Accordingly they are directed to remain present before this Tribunal on that date with the relevant record.

12. A copy of this order be also sent to the Principal Secretary, Revenue Department, Government of Uttarakhand, the Principal



Chief Conservator of Forest (HoFF), Government of Uttarakhand and the Surveyor General of India by email for requisite compliance.

- 8- That That the British Government Notified Indian Forest Act 1927 (Act No. 16 of 1927) to consolidate the law relating to forests, transit of forest-produce and the duty leviable and other forest-produce.
- 9- That the Indian Forest Act 1927 deals with the deferent kind of Forest namely Reserved Forest (Chapter-II, Sec. 3 to 27), Village Forest (Chapter-III Sec 28), Protected Forest (Chapter-IV Sec 29 to 34) & Of the Control over Forests and lands not being the property of Government (Chapter-V Sec 35 to 38).
- 10- That Chapter-II, Section-3 of Indian Forest Act 1927 empowers the State Government to constitute any Forest land or Waste land which is the property of Government a Reserved Forest in prescribed manner. Section-3 of Indian Forest Act 1927 is being quoted as under-
 3. *Power to reserve forests.—The State Government may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.*
- 11- That the Chapter-II, Section-4 of Indian Forest Act-1927 empowers the State Government to issued notification in official gazette declaring that any land has been decided to constitute as a Reserved Forest. The Section-4(b) of Indian Forest Act-1927 empowers the State Government to specify as nearly as possible



the situation of the land. Section-4(c) of Indian Forest Act-1927 empowers the State Govt. to appoint an officer (The Forest Settlement Officer) to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land.

- 12- That Chapter-II, Section- 5 of Indian Forest Act-1927 put a bar of accrual of Forest rights after the issue of notification under Section-4. After the notification of Section-4, no person/agency can claim any right over the land comprised in the notification except by succession or under a grant or contract in writing made or entered into by or on behalf of Govt. The Section- 5 of Indian Forest Act-1927 is being quoted as under-

5. Bar of accrual of forest-rights.—After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the State Government in this behalf.

- 13- That the State of Uttar Pradesh made an amendment in Section-5 of Indian Forest Act-1927 by Uttar Pradesh Act No.-23 of 1965 with effect of 23.11.1965. The amendment made by Uttar Pradesh Govt. is being quoted as under-



[Uttar Pradesh].- In its application to the State of Uttar Pradesh, for Section 5, substitute the following section, namely: 5. Bar of accrual of forest rights.- After the issue of notification under section 4 no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or a contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land, nor any tree therein felled, girdled, lopped, tapped, or burnt, or its bark or leaves stripped off, or the same otherwise damaged, nor any forest-produce removed therefrom, except in accordance with such rules as may be made by the State Government in this behalf. U.P. Act 23 of 1965, Section 3 (w.e.f. 23-11-1965).

- 14- That Chapter-II, Section-20 of Indian Forest Act-1927 empowers the State Govt. to issue notification declaring Reserved Forest. The Section-20 of Indian Forest Act-1927 is being quoted as under-

20. Notification declaring forest reserved.-

(1) When the following events have occurred, namely:-

(a) the period fixed under section 6 for preferring claims have elapsed and all claims (if any) made under that section or section 9 have been disposed of by the Forest Settlement-officer;

(b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and

(c) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11, elected to acquire under the Land Acquisition Act, 1894 (1 of 1894), have become vested in the Government under section 16 of that Act,

The State Government shall publish a notification in the Official Gazette, specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

(2) From the date so fixed such forest shall be deemed to be a reserved forest.

- 15- That the State of Uttar Pradesh made amendment in Indian Forest Act-1927 by the way of Indian Forest (Uttar Pradesh Amendment) Act-1965 and inserted a new Section-20 A in the Act. The Section-20 A of Indian Forest (Uttar Pradesh Amendment) Act-1965 is being quoted as under-

[Uttar Pradesh].- In its application to the State of Uttar Pradesh, after Section 20, insert the following new section, namely:

20-A. Certain forest-land or waste-land when deemed to be reserved forest.



(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, including the Merged States (Laws) Act, 1949 or the Uttar Pradesh Merged States (Application of Laws) Act, 1950, or any order issued thereunder, any forest-land or waste-land in a merged State which immediately before the date of merger (hereinafter in this section referred to as the said date),

(a) was deemed to be a reserved forest under any enactment in force in that State, or

(b) was recognised or declared by the Ruler of such State as a reserved forest under any law (including any enactment, rule, regulation, order, notification, custom or usage having the force of law) for the time being in force, or

(c) was dealt with a reserved forest in any administrative report or in accordance with any working plan or register maintained and acted upon under the authority of the Ruler, shall be deemed to be and since the said date to have continued to be a reserved forest subject to the same rights or concession, if any, in favour of any person as were in force immediately before the said date.

Explanation I. A certificate of the State Government or of any officer authorized in this behalf to the effect that a report, working plan or register was maintained and acted upon under the authority of the Ruler shall be conclusive evidence of the fact that it was so maintained and acted upon.



Explanation II. Any question as to the existence or extent of any right or concession referred to in this sub-section shall be determined by the State Government, whose decision, given after such enquiry, if any, as it thinks fit, shall be final.

Explanation III. Working plan includes any, plan scheme, project, map, drawings, and lay-outs prepared for the purpose of carrying out the operations in course of the working and management of forests.

(2) No right shall be deemed to have been acquired on or after the said date in or over any land mentioned in sub-section (1) except by succession or under a grant or contract in writing made or entered into by or on behalf of the State Government or some person in whom such right was vested immediately before the said date and no fresh clearings since made for cultivation or for any other purpose (except clearings made in accordance with any concessions granted by the Ruler and in force immediately before the said date or in accordance with the rules made by the State Government in this behalf since the said date) shall be recognised as or deemed to be lawful, anything contained in this Act or any other law for the time being in force notwithstanding.

(3) The State Government may within five years from the commencement of the Indian Forest (Uttar Pradesh Amendment) Act, 1965, revise any arrangement of the nature specified in section 22, and pass any incidental or consequential order, including any direction to the effect

that any of the proceedings specified in the foregoing provisions of this Chapter be taken.

(4) In relation to any land mentioned in sub-section (1), the reference in sections 24 and 26

(a) to section 23 shall be construed as references to sub-section (2); and

(b) to rights admitted, recorded or continued under section 14 or section 15 shall be construed as references to rights of pasture or to forest-produce admitted, recorded or continued in or under the corresponding enactment, law or document referred to in sub-section (1).

- 16- That Section-22 of Indian Forest Act-1927 empowers the State Govt. to revised arrangement made under Section-15 or Section-18 of said Act. The Section-22 of Indian Forest Act-1927 is being quoted as under-

22. Power to revise arrangement made under section 15 or section 18—

The State Government may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

- 17- That State of Uttar Pradesh made an amendment in Indian Forest Act-1927 and amended the Section-22 of Central Act by Indian Forest (Uttar Pradesh Amendment) Act-1965. The Section-22 of

Indian Forest (Uttar Pradesh Amendment) Act-1965 is being quoted as under-

22. Power to revise arrangement made under section 15 or section 18.—The 1 [State Government] may, within five years from the publication of any notification under section 20 revise any arrangement made under section 15 or on appeal under section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings, specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

- 18- That the State of Uttar Pradesh inserted a new Section namely Section-22 A in Indian Forest Act-1927 by the way of Indian Forest (Uttar Pradesh Amendment) Act-1965. The Section-22 A of Indian Forest (Uttar Pradesh Amendment) Act-1965 is being quoted as under-

22-A. Power of revision in other cases.

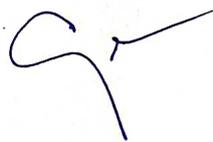
(1) Without prejudice to the provisions of section 22, the State Government may, either of its own motion or on a petition being made in that behalf, call for the record of any appeal decided under section 18, and may confirm the order passed on such appeal, or set it aside; or modify it, or remand the case to the Forest Settlement Officer with such directions as it may think fit.

(2) No petition under this section may be made, after November 22, 1965 and the State Government may not

exercise any power under this section after the said date.

U.P. Act 11 of 1973, Section 2 (w.r.e.f. 23-11-1960).

- 19- That the Section-23 of Indian Forest Act-1927 provides that No right acquired over reserved forest. The Section-23 of Indian Forest Act-1927 is being quoted as under-
- 23. No right acquired over reserved forest, except as here provided.—No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the [Government] or some person in whom such right was vested when the notification under section 20 was issued.*
- 20- That in compliance of order dated 28-11-2023, the Tehsildar Nainital vide letter no. 318/Ra.Ka./2024 dated 01-02-2024 send a detail report to Sub-Divisional Magistrate, Nainital regarding the land in question of instant Original Application. The Tehsildar, Nainital in his report admitted that as per the settlement carried out in year 1899-77. The Khasra No. 424 (Sabik Khasra No. 172/916) having area of 1.097 Hec. is Partly overlapping on Forest area which was removed in the Revenue map prepared in 1955-56. It is clear evidence that the said land is a part of Reserve Forest Kuriya Block of Manora Range, Nainital Forest Division, Nainital.
- 21- That if a Government or Waste Land declare a Reserved Forest as per Section-20 of Indian Forest Act-1927 than the said land remains as Reserve till the State Govt. issue a notification under Section-27 of Indian Forest Act-1927 regarding to declare Forest no longer reserve. The Section-27 of Indian Forest Act-1927 is being quoted as under-



27. *Power to declare forest no longer reserved.—*

(1) *The State Government may by notification in the Official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under the Act shall cease to be a reserved forest.*

(2) *From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.*

- 22- That the State Govt. of Uttar Pradesh or Uttarakhand never issued any notification under Section-27 of Indian Forest Act-1927 regarding the Reserve Forest of Kuriya Block of Manora Range, Nainital Forest Division, Nainital.
- 23- That the Forest Range Officer, Manora Forest Range, Nainital Forest Division, Nainital vide letter no. 349/13-1 dated 12-01-2024 also send a report to Sub-Divisional Forest Officer, Nainital Forest Division, Nainital regarding the land of Kuriya Compartment No. 05 of Manora Range. The Forest Range Officer, Manora Forest Range, Nainital Forest Division, Nainital informed that he has made an inspection dated 12-01-2024 with Surveyor and Sub-Ordinated Staff of Manora Range, Nainital Forest Division, Nainital and found that the as per the record and maps of forest department the land belongs to Forest Department and in Revenue Records the same land has been shown as Revenue land. The Range Officer, Manora also requested that the survey of said land should be conducted through Survey of India Department.



- 24- That as per the instruction/orders given by office of deponent vide letter no. 3767/13-1 dated 23-01-2024 a team of 03 Surveyors namely Mr. Ajay Kumar, Surveyor, Almora Forest Division, Almora, Mrs. Neelam Kohli, Surveyor, Nainital Forest Division, Nainital and Mrs, Sunita, Surveyor, Tarai East Forest Division, Haldwani inspected the said land. As per their report the Revenue Maps are showing the land between Boundary Pillar No. 07 and 08 of Kuriya Block as Revenue land. The team of surveyor further reported that as per Khasra No. 424 of Village Gethiya, Patti Bhowali, District Nainital in Revenue records the total lands is a revenue land but that revenue land is overriding the land located in Reserve Forest, Kuria Block, Compartment No. 5 of Manora Range. Hence there is dispute between the boundaries of Reserve Forest and Revenue land in instant matter.
- 25- That the Joint Inspection Report dated 06-01-2024 prepared in compliance of order dated 28-11-2023 passed by this Hon'ble Tribunal also indicates that there is a dispute in Khtauni No. 144, Khasra No. 424 of Village Gethiya, Patti Bhowali, District Nainital and the Reserve Forest of Kuria Block, Compartment No. 5.
- 26- That the Divisional Forest Officer, Nainital Forest Division, Nainital vide letter no. 2554/27-19 dated 28-01-2021 also informed Conservator of Forest, South Kumaun Circle, Uttarakhand Nainital regarding the dispute and further requested to conduct a survey of said land through Survey of India Department, Govt. of India.
- 27- That the Hon'ble Apex Court in the matter of Prahlad Pradhan and Ors. Vs. Sonu Kumhar and Ors. negated argument of



ownership based upon entries in the revenue records. It was held that the revenue record does not confer title to the property nor do they have any presumptive value on the title. The Court held as under:

“5. The contention raised by the appellants is that since Mangal Kumhar was the recorded tenant in the suit property as per the Survey Settlement of 1964, the suit property was his self-acquired property. The said contention is legally misconceived since entries in the revenue records do not confer title to a property, nor do they have any presumptive value on the title. They only enable the person in whose favour mutation is recorded, to pay the land revenue in respect of the land in question. As a consequence, merely because Mangal Kumhar’s name was recorded in the Survey Settlement of 1964 as a recorded tenant in the suit property, it would not make him the sole and exclusive owner of the suit property.”

- 28- That the Principal Chief Conservator of Forest (HoFF), Uttarakhand Dehradun vide letter dated 13-05-2024 directed to survey and demarcation of said land through Survey of India. A true/typed/photocopy of letter dated 13-05-2024 is being annexed as **Annexure no. 01** of this affidavit.
- 29- That as per direction issued by Principal Chief Conservator of Forest (HoFF), Uttarakhand Dehradun vide letter dated 13-05-2024 the office of deponent vide letter dated 15-07-2024 referred the matter to Surveyor General of India, Hathibadkla, Salwala, Uttarakhand, Dehradun for survey and demarcation of said land.



A true/typed/photocopy of letter dated 15-07-2024 is being annexed as Annexure no. 02 of this affidavit.

- 30- That after the survey and demarcation of said land the office of deponent will take necessary steps to remove any kind of encroachment in said land under the provisions of Section-61 A of Indian Forest (Uttaranchal Amendment) Act-2001.

PARAWISE REPLY

- 31- That the contents of paragraph nos. 01 & 02 of instant Original Application needs no comments.
- 32- That the contents of paragraph no. 03 of instant Original Application needs no comments due to lack of knowledge regarding the land holding of the petitioner/applicant.
- 33- That the contents of paragraph no. 04 of instant Original Application are matter of records.
- 34- That in reply to contents of paragraph nos. 05 to 08 of instant Original Application it is necessary to mention here that there is a dispute between the boundaries of Kuriya Block. As per the instruction/orders given by office of deponent vide letter no. 3767/13-1 dated 23-01-2024 a team of 03 Surveyors namely Mr. Ajay Kumar, Surveyor, Almora Forest Division, Almora, Mrs. Neelam Kohli, Surveyor, Nainital Forest Division, Nainital and Mrs, Sunita, Surveyor, Tarai East Forest Division, Haldwani inspected the said land. As per their report the Revenue Maps are showing the land between Boundary Pillar No. 07 and 08 of Kuriya Block as Revenue land. The team of surveyor further reported that as per Khasra No. 424 of Village Gethiya, Patti



Bhowali, District Nainital in Revenue records the total lands is a revenue land but that revenue land is overriding the land located in Reserve Forest, Kuriya Block, Compartment No. 5 of Manora Range. Hence there is dispute between the boundaries of Reserve Forest and Revenue land in instant matter.

- 35- That in reply to contents of paragraph no. 09 of instant Original Application it is necessary to mention here that the Principal Chief Conservator of Forest (HoFF), Uttarakhand Dehradun vide letter dated 13-05-2024 directed to survey and demarcation of said land through Survey of India.
- 36- That the contents of paragraph no. 10 of instant Original Application are not admitted as mentioned by the petitioner. The Boundary dispute of Revenue and Forest Department is a separate issue. The Forest Fire is a common problem of entire state. The forest fire has no relation with the boundary disputation.
- 37- That the contents of paragraph nos. 11 & 12 of instant Original Application are not admitted hence denied. The respondent department has conducted time to time inspection of said land and now the Principal Chief Conservator of Forest (HoFF), Uttarakhand Dehradun vide letter dated 13-05-2024 directed to survey and demarcation of said land through Survey of India. The office of deponent vide letter dated 15-07-2024 referred the matter of survey and demarcation to survey of India Department.
- 38- That in reply of contents of paragraph no. 13 of instant Original Application it is necessary to mention here that the Forest Department has decided to conduct a survey and demarcation of



said land as per the order dated 13-05-2024 issued by Principal Chief Conservator of Forest (HoFF), Uttarakhand Dehradun.

DEPONENT
प्रभागीय वनाधिकारी
नैनीताल वन प्रभाग, नैनीताल

VERIFICATION

I, the deponent above named do hereby verify and say that the contents of my above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed there from. The legal submissions are further true as per legal advice received and believed to be true and correct.

Verified by me at Nainital, Uttarakhand on this day of
..18..July, 2024.

DEPONENT
प्रभागीय वनाधिकारी
नैनीताल वन प्रभाग, नैनीताल

(Chandra Shekhar Joshi)
Divisional Forest Officer Nainital,
Forest Division, Nainital/Deponent

g



कार्यालय

प्रमुख वन संरक्षक (HoFF), उत्तराखण्ड, देहरादून।

विधि प्रकोष्ठ, संभाग ताल 85, राजपर रोड, देहरादून। ☎ 0135-2742400, Email-nodallegalcell.uk@gmail.com

पत्रांक- 1191 / 29-3(3) देहरादून : दिनांक 13 मई, 2024

सेवा में,

प्रभागीय वनाधिकारी,
नैनीताल वन प्रभाग,
नैनीताल।

विषय : मा0 राष्ट्रीय हरित प्राधिकरण, नई दिल्ली में विचाराधीन मूल आवेदन संख्या-709/2023 लाल जी कुमार बनाम प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग व अन्य के संबंध में।

महोदय,

उपरोक्त विषयक प्रकरण में मा0 राष्ट्रीय हरित प्राधिकरण, नई दिल्ली के पारित आदेश दिनांक 08.04.2024 (प्रति संलग्न) का अवलोकन करें।

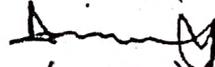
अद्यत कराना है कि उक्त प्रकरण जनपद नैनीताल स्थित ग्राम गेटिया के खतौनी संख्या-144 के खसरा नं0 424 में राजस्व विभाग एवं वन विभाग के मध्य सीमा विवाद एवं भूमि के रिकार्ड आदि में मत भिन्नता होने के कारण योजित की गई है।

अतः उक्त के क्रम में आपको निर्देशित किया जाता है कि प्रकरण में विवादित भूमि का भारतीय सर्वेक्षण संस्थान के प्रतिनिधि व विभाग के अधिकारियों द्वारा संयुक्त सर्वेक्षण व सीमांकन कराकर सर्वेक्षण जांच रिपोर्ट व अधोहस्ताक्षरी की ओर से योजित किये जाने वाले प्रतिशपथ पत्र का आलेख तैयार कर शीघ्र अधोहस्ताक्षरी को उपलब्ध करायें ताकि अधोहस्ताक्षरी की ओर से समयान्तर्गत मा0 राष्ट्रीय हरित प्राधिकरण में प्रतिशपथ पत्र योजित किया जा सके।

नोट : - प्रकरण की आगामी सुनवाई की तिथि दिनांक 19.07.2024 नियत है।

संलग्नक : - यथोपरि।

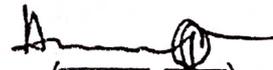
भवदीय,


(धनन्जय मोहन) 13/05

प्रमुख वन संरक्षक (HoFF),
उत्तराखण्ड, देहरादून।

संख्या : 1191 / 29-3(3) तददिनांकित।

प्रतिलिपि : प्रमुख वन संरक्षक/अपर प्रमुख वन संरक्षक, पर्यावरण, उत्तराखण्ड, देहरादून को उपरोक्त के क्रम में सूचनार्थ एवं यथोचित कार्यवाही हेतु प्रेषित।


(धनन्जय मोहन)

प्रमुख वन संरक्षक (HoFF),
उत्तराखण्ड, देहरादून।


प्रभागीय वनाधिकारी
नैनीताल वन प्रभाग, नैनीताल



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ANNEXURE-2

अति-महत्वपूर्ण / एन0जी0टी0 प्रकरण

कार्यालय प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल

E-mail: dfonainital@gmail.com

courtcellforestntl@gmail.com

Telefax: 05942-236790, 231792

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पत्रांक- 1022 / 29-3 (3) नैनीताल,

दिनांक- 15 / 07 / 2024

सेवा में,

सर्वेयर जनरल ऑफ इण्डिया,
भारतीय सर्वेक्षण विभाग,
हाथीबड़कला, सालवाला,
देहरादून, उत्तराखण्ड। 248001

विषय- माननीय राष्ट्रीय हरित अधिकरण (एन0जी0टी0), नई दिल्ली द्वारा मूल आवेदन पत्र-संख्या 709/2023, लाल जी कुमार बनाम डिविजनल फॉरेस्ट ऑफिसर, नैनीताल फॉरेस्ट डिवीजन व अन्य के सम्बन्ध में।

सन्दर्भ- प्रमुख वन संरक्षक (HoFF), उत्तराखण्ड, देहरादून का पत्रांक-ख-1191/29-3(3) दिनांक-13.05.2024।

महोदय,

याचिकाकर्ता द्वारा माननीय राष्ट्रीय हरित प्राधिकरण, नई दिल्ली में योजित मूल आवेदन संख्या-709/2023, लाल जी कुमार बनाम प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल व अन्य में निम्न प्रार्थना की गयी है-

- 1- Order the authorities to demarcate the boundary line between the revenue and forest land precisely and scientifically provide boundary pillars with precise geo coordinates and according to the approval maps of forest and revenue.
- 2- Order the authorities to clear the encroachment on the aforesaid forest land and take possession of the encroached forest land.
- 3- Order the authorities to take remedial measure to check further forest fire incidents in future.

विषयगत प्रकरण में दिनांक 08.04.2024 को माननीय राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा विषयगत प्रकरण में सुनवाई करते हुए निम्न प्रकार आदेश पारित किया गया था-

8. In view of the nature and magnitude of the environmental issues regarding destruction/user for non-forest purposes of forest land by encroachments in the garb of disputes regarding ownership/possession/demarcation in the entire State of Uttarakhand, we consider it appropriate to expand the scope of present proceedings in exercise of powers to take suo motu cognizance for protection of forest land by just and proper adjudication of the environmental questions involved. Accordingly, the Principal Secretary, Revenue Department, Government of Uttarakhand, Principal Chief Conservator of Forest (HoFF), Government of Uttarakhand and Surveyor General of India are directed to file their respective replies/responses by way of affidavits giving details of land which is claimed by

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नैनीताल वन प्रभाग, नैनीताल

the Forest Department/Survey of India to be forest land regarding which entries in favour of private land holders have been made by the Revenue Department and disputes regarding ownership/possession/demarcation are pending

9. Replies/response by way of affidavits be filed by the Principal Secretary, Revenue Department, Government of Uttarakhand, Principal Chief Conservator of Forest (HoFF), Government of Uttarakhand and Surveyor General of India within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

10. List for further consideration on 19.07.2024.

विषयगत प्रकरण में माननीय राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा आपको भी पक्षकार बनाया गया है। इस प्रकरण में प्रमुख वन संरक्षक (HoFF) उत्तराखण्ड, देहरादून द्वारा पत्रांक-ख 1191/29-3(3) दिनांक 13.05.2024 (संलग्न) से अधोहस्ताक्षरी को विवादित भूमि का भारतीय सर्वेक्षण संस्थान के प्रतिनिधि के माध्यम से संयुक्त सर्वेक्षण एवं सीमांकन कराये जाने के निर्देश निर्गत किये गये हैं।

इस क्रम में अनुरोध है कि आरक्षित वन कुरिया कक्ष संख्या-5, मनोरा वन क्षेत्र, नैनीताल वन प्रभाग, नैनीताल में स्थित उक्त भूमि का सर्वेक्षण एवं सीमांकन भारतीय सर्वेक्षण संस्थान के किसी सक्षम/उच्च स्तरीय अधिकारी के माध्यम से करवाने हेतु आवश्यक कार्यवाही करने का कष्ट करें।

संलग्नक-उपरोक्तानुसार।

भवदीय

प्रभागीय वनाधिकारी,
नैनीताल वन प्रभाग, नैनीताल

पत्रांक- 1022 / तददिनांकित

प्रतिलिपि- निम्न को -

1. प्रमुख वन संरक्षक (HoFF) उत्तराखण्ड, देहरादून को इस अनुरोध से प्रेषित कि विषयगत प्रकरण में अपने स्तर से भी सम्बन्धित संस्थान को प्रश्नगत विवादित भूमि का संयुक्त सर्वेक्षण एवं सीमांकन करने हेतु प्रकरण सन्दर्भित करने की कृपा करें।
2. प्रमुख वन संरक्षक, पर्यावरण, उत्तराखण्ड, देहरादून को सूचनार्थ प्रेषित।
3. मुख्य वन संरक्षक, कुमाऊँ, उत्तराखण्ड, नैनीताल को सूचनार्थ प्रेषित।
4. वन संरक्षक, दक्षिणी कुमाऊँ वृत्त, उत्तराखण्ड, नैनीताल को सूचनार्थ प्रेषित।

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नैनीताल वन प्रभाग, नैनीताल

प्रभागीय वनाधिकारी,
नैनीताल वन प्रभाग, नैनीताल