

BEFORE THE NATIONAL GREEN TRIBUNAL, EASTERN ZONE  
BENCH, KOLKATA

Original Application No. 100/2017/EZ

Subash Mahapatra ... Applicant

-Versus-

State of Odisha & Others ... Respondents

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Date: 27.09.2021

By the Respondent No.2 through

T.K. Pralharaj  
Advocate

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

**O.A. No.100 of 2017/EZ.**

Subash Mohapatra.

...

Applicant.

-Versus-

State of Odisha & others.

...

Opp.Parties.

Mohanty

**SHOW CAUSE AFFIDAVI FILED ON BEHALF OF RESPONDENT No.2**

I, Sri Sanat Kumar Mohanty, aged about 59 years, at present working as Collector & D.M Khordha, Dist: Khurda do hereby solemnly affirm and state as follows:-

1. That I am swearing this affidavit being the Respondent No.2 in this case.
2. That I have gone through the abovementioned original application and have understood the contents thereof. In my official capacity I am well acquainted with the facts of the case and thus competent to swear this affidavit.
3. That the aforesaid original application has been filed by the petitioner alleging against the unauthorized construction of building and structures, educational institutions, industries and other businesses over the forest land in Patia Mouza of Bhubaneswar Tahasil without prior approval of central Government under Forest Conservation Act 1980 and to direct the Respondent No.1,2 & 3 to demolish the building and

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structures constructed on the forest land in question as well as non-forest land in Patia Mouza.

4. That, it is humbly submitted here that the Respondent No.5 through its General Manager, applied in his letter date 11.11.1982 for allotment of Ac.707.93 dec. of land for establishment of different industrial units in village Patia

5. That, it is humbly submitted that, for the purpose of alienation of the land measuring Ac.707.93 dec in favour of IDCO Respondent No.5, W.L. Case No.6 of 1983 was initiated. Prior to the sanction of Advance Possession of AC.707.93 dec. which includes the land in question measuring Ac.260.62 dec. was recorded as Jungle as per the 1973 final R.O.R. Since the settlement operation in a particular area from start to finish continuous for a long period like 12 to 15 years, by the time final R.O.R, was published on the basis of initial enquiry, the Sub-Divisional Officer, Bhubaneswar conducted spot verification of the land in question and could found as per its order dated 01.08.1985 that there was no forest growth on the said land nor even bushes except ten numbers of mango trees on Plot No.516, the value of which was estimated to Rs.5000/- (Rupees Five Thousand only). On such observation, the SDO, Bhubaneswar recommended advance possession in favour of the Respondent. No.5.

6. That, it is humbly submitted that the SDO, Bhubaneswar vide its order dated 16.01.1986 have taken note of the fact that the village Patia comes under the control of Bhubaneswar Development Authority and the master plan has already been drawn up for the said village. It is relevant to note here that the master plan of Bhubaneswar Capital was made on the basis of the spot verification and report of the concerned officers of

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Bhubaneswar Development Authority. On the basis of such verification, the land has been included in the master plan for individual purpose and accordingly, IDCO Respondent No.5 being the nodal agency for industrial development in the State including Bhubaneswar, the land was leased out to IDCO Respondent No.5 for leasing out the same to different individual entrepreneurs in accordance the IDCO Act and the law governing the field.

7. That, it is humbly submitted that the lands in question had lost its nature and character as Jungle much before and the same had been exclusively been kept reserved for industrial complex. It is humbly submitted that, the question of conversion of the land which is given for industrial purpose is not required and hence conversion of plots from Abad – Ajogya to Abada Jogya was not at all necessary before lease/alienation in view of the facts narrated above .

8. That, the SDO, Bhubaneswar in the same order has mentioned that Plot No.2,318,516 and 6 have already been recorded as 'Jungle', as per the 1973 R.O.R. which was indicated in his order dated 01.08.1985. However, after making spot verification by him it is found that there was no forest growth except 10 mango trees, the cost of which has been estimated to Rs.5000/- (Rupees Five Thousand only) i.e. @ Rs.500/- (per tree) which was paid . The lands in question had completely lost its character as 'Jungle' and as per condition, the necessary fees has been deposited.

9. That, it is humbly submitted that, in pursuance to the same, the Collector, Puri accorded sanction for alienation of Govt. Land measuring Ac.707.93 dec. in Village – Patia in favour of IDCO Respondent - No.5 by way of lease vide letter dated 24.01.1986 bearing no.564. Thereafter,

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Officials on behalf of IDCO Respondent – No.5 were present before the Addl. Tahasildar, Bhubaneswar and produced the copy of the order of Collector, Puri dated 24.01.1986 regarding sanction of alienation of land in village Patia in favour of IDCO Respondent - No.5. In pursuance to the aforesaid sanction, a lease deed bearing No.1381 dtd.05.02.86 was executed and registered between the Collector Puri and the Respondent - No.5 and for consideration amount of 17,69,825 (Rupees Seventeen Lakhs Sixty Nine Thousand Eight Hundred and Twenty Five) only was deposited.

10. That, it is humbly submitted that, the Hal ROR of Village 'Patia' was finally published in 09.12.1973 as reported by the Sub-Collector, Bhubaneswar vide letter dated 8339 dated 26.10.2017. As mentioned in the order of the Sub-Divisional Officer village Patia came under Bhubaneswar Development Authority and in the master plan the case lands were exclusively reserved for industrial purpose. The spot verification report of the Revenue Inspector, Kalarahanga in the year 1985 revealed that there was no forest growth over the land in dispute.

11. That, it is respectfully submitted here that there was no settlement operation during the period from 1973-1985 in area in question and therefore, there was no occasion for the land being recorded in the present status as Patita, the actual classification of the land in question. In the absence of settlement operation preparation of Record of Right, the competent authority on the basis of the spot verification and local enquiry have recorded the land, which is evident from the report of the sport verification officers.

12. That, it is humbly submitted here that though the entries made in the record of right has been mentioned as 'Jungle' but since the nature and

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character of the land in dispute was never 'Jungle' in Kissam but 'Patita' as evident from the report and order of Addl. Tahasildar, Bhubaneswar and SDO, Bhubaneswar and after taking note of the same, the land has been transferred in favour of the Respondent -NO.5 for the purpose of setting up Chandaka Industrial Estate. Therefore, there is no contravention to the provisions of Section-2 of the Forest Conservation Act, 1980 by any of the State Respondents as at the relevant time said Sec-2 (iii) of the FC Act was not in operation as by the time the land was transferred the same had lost its nature and character as Jungle.

13. That, it is humbly submitted that the prior permission or restriction were not applicable in the relevant time where the land in question was transferred in favour IDCO Respondent - No.5. It is further submitted here that the Individual Entrepreneurs who have been allotted the lands have set up their individual units and the same have already started operation. They are not parties to the present proceeding. Moreover, for industrial use, necessary permission and clearance from the competent authority as per law are to be obtained this Respondent reasonably believed that they have complied with the same. The applicant being aware of the position that different persons have been allotted the land for industries which has been set up since long have not impleaded them as parties in the present proceeding.

14. That it is humbly submitted that, on receipt of the interim order dated 23.05.2017 passed by this Hon'ble Tribunal, the present Deponent Respondent No 2 has constituted a Joint Verification Committee vide Office Order No.8747 dated 28.06.2017 after receipt of the proposal of the Divisional Forest Officer, Wild Life Division, Bhubaneswar.

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15. That this Hon'ble Tribunal vide its order dt.09.07.2021 has directed the present deponent to file an affidavit bringing on record the report of the committee constituted to determine the present status of the land, unauthorized construction and violation of the Forest (Conservation) Act,1980 ,if any .

16. That pursuant to the said order passed by this Hon'ble Tribunal the committee submitted its report on dt.28.07.2021 which reveals that during field visit, encroachment in different forms were noticed. Steps have been taken by enforcement agencies of different Departments such as General Administration Deptt., Bhubaneswar Development Authority and Bhubaneswar Municipal Corporation for eviction of the unauthorised occupants over Government land following due process of law. The said Joint Verification Report dtd.28.07.2021 is filed as **ANNEXURE - B/2** to the affidavit on dtd.02.08.2021 for kind perusal of this Hon'ble Tribunal.

17. That, it is humbly submitted that, from the aforesaid paragraphs it is crystal clear that there is absolute no wrong has been committed by any of the State Respondents at any point of time. The State Respondents are always very much concerned with the environmental aspects, which is very much required for its citizens and they have taken all necessary steps to that regards by planting several trees in the said area regularly.

18. That, in view of the facts stated above, the original application is liable to be dismissed and the interim order dtd. 04.10.17 may kindly be vacated.

19. That, the contents of the above paragraphs are true and correct to the best of my knowledge as derived from the official records and that nothing material has been concealed there from and the present deponent

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reserves the right to file any further affidavit as and when required and directed by this Hon'ble Tribunal.

20. That, the facts mentioned by the applicant in the aforesaid Original Application has no merit and accordingly the prayer of the applicants may kindly be rejected.

*Sanat Kumar Mohanty*  
**DEPONENT** 27.09.21

**VERIFICATION**

I, Sri Sanat Kumar Mohanty, aged about 59 years, S/o., Nimai Charan Mohanty, at present working as Collector-cum District Magistrate, Khurda, Dist: Khurda, being Respondent No.2 do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge as derived from official records and that nothing material has been concealed there from.

Verified at Khurda on this the 27<sup>th</sup> day of September 2021.

*Sanat Kumar Mohanty*  
**VERIFICANT** 27.09.21

**Certificate**

CFNO-2489/nil  
27/9/21

The deponent personally known to me being present before me this day i.e. 27.09.2021 solemnly affirm that the contents of this affidavit are true to the knowledge basing on official records.

*Sanat Kumar Mohanty*  
**Deponent**

*R*  
27.09.21

**Executive Magistrate, Khurda**  
**Executive Magistrate**  
**Khurda**

