

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI**

ORIGINAL APPLICATION NO. 706 OF 2022

IN THE MATTER OF:

ASGAR AHMAD NAJAR

...APPLICANT

Versus

**MINISTRY OF ENVIRONMENT, FOREST AND
CLIMATE CHANGE & ORS.**

...RESPONDENTS

INDEX

| S. NO. | PARTICULARS | PAGE NO. |
|--------|---|----------|
| 1. | OBJECTIONS ALONGWITH SUPPORTING AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 8 '(PROJECT PROPONENT') TO THE 2 nd REPORT OF THE JOINT COMMITTEE FILED IN COMPLIANCE OF ORDER DATED 10.02.2023 PASSED IN O.A. NO. 706 OF 2022 | 357 -367 |
| 2. | <u>Annexure R-8/35:</u> Copy of the Cheque along with letter submitted by the Project Proponent in the office of SDM, Banihal | 368 -369 |
| 3. | <u>Annexure R-8/36 (Colly):</u> Colored photographs showing clear placement of flush and flow pipes | 370 -372 |
| 4. | <u>Annexure R-8/37:</u> Copy of Letter dated 06.04.2023 issued to IRCON is annexed herewith and marked as | 373 |
| 5. | <u>Annexure R-8/38:</u> Copy of Letter dated 06.04.2023 issued by IRCON to Dy. Commissioner, Ramban | 374 |
| 6. | <u>Annexure R-8/39:</u> Copy of Complaint dated 30.04.2023 addressed to Police Station, Banihal | 375 -378 |
| 7. | <u>Annexure R-8/40:</u> Copy of Letter dated 02.05.2023 issued by the Office of DM, Ramban | 379 |

| S. NO. | PARTICULARS | PAGE NO. |
|--------|---|----------|
| 8. | <u>Annexure R-8/41</u> : Copy of revenue records showing the ownership of the said agricultural land | 380 -387 |
| 9. | <u>Annexure R-8/42</u> : Copy of undertaking cum affidavit submitted on behalf of the Project Proponent | 388 -389 |

FILED THROUGH

Karun

KNM & PARTNERS LAW OFFICES
 VIJAY NAIR/ MANORANJAN SHARMA/KARAN RAJPUROHIT
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 1ST FLOOR, THE GREAT EASTERN CENTRE,
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Dated: 13.05.2023

Place: New Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI**

ORIGINAL APPLICATION NO. 706 OF 2022

IN THE MATTER OF:

ASGAR AHMAD NAJAR

...APPLICANT

Versus

**MINISTRY OF ENVIRONMENT, FOREST AND
CLIMATE CHANGE & ORS.**

...RESPONDENTS

OBJECTIONS ON BEHALF OF RESPONDENT NO. 8 ('PROJECT PROPONENT') TO
THE 2ND REPORT OF THE JOINT COMMITTEE.

MOST RESPECTFULLY SHOWETH:

1. Before advertng to the contents of the 2nd report of the Joint Committee, at the outset, it is submitted that the Project Proponent has already complied and promptly acted upon the directions and suggestions given in the earlier factual report submitted by the Joint Committee and in furtherance thereto, the Project Proponent has also taken all remedial measures as suggested in the said factual report. Subsequent thereto, the compliances were duly reported to the Joint Committee alongwith the documents evidencing the compliances, which are also placed on record before this Hon'ble Tribunal.
2. Upon perusal of the documents filed by the Project Proponent along with the objections, this Hon'ble Tribunal had observed in the order dated 10.02.2023, that the Project Proponent has mentioned in detail the steps taken for compliance with the recommendations made by the Joint Committee. However, to verify the compliances done by the Project Proponent, this Hon'ble Tribunal vide order dated 10.02.2023 directed the Joint Committee to undertake a visit to the site in question and verify the factual position regarding the compliance with the recommendations made in the earlier factual report. In addition, the Joint Committee was directed to

file a fresh report within 2 months which came to be filed on 17.04.2023, followed by the action taken report of the District Magistrate, Ramban (filed on 13.04.2023), and the action taken report of J&K PCB (filed on 17.04.2023).

3. As far as the action taken reports are concerned, report of the District Magistrate, Ramban and report of J&K Pollution Control Committee are of material relevance for deciding the present Original Application under consideration.
 - a. Observations forming part of the action taken report submitted by District Magistrate, Ramban are reproduced herein below:
 - i. **District Mineral Officer, Ramban** has revisited the site and found that retaining wall/ crate wall provided at the base of muck dump above old aligned Railway tunnel is sufficient to hold the dump muck at site.
 - ii. **Chief Horticulture Officer, Ramban** has submitted a clarification report vide his office letter dated 11.04.2023, which reveals that no damage has been caused to the horticulture plantations to the land in question.
 - iii. **Regarding the issue reported by the Joint Committee about the cracks in the walls of Applicant's house and other inhabitants of the locality of Channar**, the Office of District Magistrate, Ramban sought clarification from the Chief General Manager, IRCON International Ltd. In response thereto, IRCON has clarified that geo-tagging of the structures falling along the alignment of T-77D was carried out in the year 2020 and none of the structures in the Channar area falls within 125 meters and does not qualify for compensation.
 - iv. As regards the damage caused to paddy land, the Chief Agricultural Officer, Ramban assessed the compensation to the tune of Rs. 69,084/-, which has been duly deposited by the Project Proponent in

the office of SDM, Banihal. Copy of the Cheque along with letter submitted by the Project Proponent in the office of SDM, Banihal is annexed herewith and marked as **Annexure R-8/35**.

b. Observations forming part of the action taken report submitted by J&K Pollution Control Committee are reproduced herein below:

- (i.) The Project Proponent has provided a three chambered sedimentation tank existing/provided near the batching plant for primary treatment of the waste water generated by washing of the plant.
- (ii.) Empty Cement Bags are stored in separate closed shed.
- (iii.) Pucca drain on down slope drainage passing through one side of the village stands provided which was not there in place earlier.
- (iv.) A Gabion wall has also been provided now to retain the muck alongwith the bottom of the dump in railway acquired land.

4. **PRELIMINARY OBJECTIONS TO THE 2ND REPORT FILED BY JOINT COMMITTEE ON 17.04.2023:**

- i. In contrast with the observations contained in the action taken report of the District Magistrate, Ramban and J&K Pollution Control Committee, the Joint Committee has submitted the 2nd Report on 17.04.2023. It has been alleged in the said Report that the Project Proponent is non-compliant with regard to tunnel waste water discharge and further, regarding the gabion walls constructed by the Project Proponent to retain the muck dump, the Joint Committee has observed that compliance with the recommendations and suggestions has been made by the Project Proponent, however the Joint Committee has recommended the Project to ensure slop stability before leaving the site.
- ii. First and foremost, it is submitted that the afore-mentioned observation of the Joint Committee to the extent of non-compliance

with regard to waste water discharge is completely inaccurate, flawed and erroneous. It is clarified that the Joint Committee had visited the site in question on 31.03.2023 on which date there was heavy rainfall in the said area, therefore, it was not possible to carry out proper and accurate assessment and verification of the site in question. However, despite all odds the Joint Committee formally carried out inspection and gave a flawed observation without even disclosing the condition in which inspection was conducted.

iii. Furthermore, the observations of the Joint Committee do not find any concurrence with the action taken reports filed by the District Magistrate, Ramban and J&K Pollution Control Committee, Jammu. Those reports clearly records that the Project Proponent has acted upon and complied with all the recommendations and suggestions given in the previous report filed by the Joint Committee, whereas the report of the Joint Committee observes non-compliance by the Project Proponent.

iv. POINT WISE RESPONSE CUM OBJECTIONS AND CLARIFICATIONS TO THE 2nd REPORT OF THE JOINT COMMITTEE FILED ON 17.04.2023:

| S. No. | Verification and Factual Report of Joint Committee as on 31.03.2023 | Point-wise response cum objection and clarification of the Project Proponent |
|--------|--|---|
| 1. | <p>Non-Compliant with regard to tunnel waste water discharge.</p> <p><i>A sedimentation tank comprising of 03 chambers for the treatment of muddy water coming out of the tunnel T-77A, was found constructed near the northern face of the tunnel but without any arrangement for settling/removal of the mud/ slush. The unsettled tunnel muddy water was still being discharged into</i></p> | <p><i>a. Observation of the Joint Committee to the extent that there is 'non-compliance' with regard to tunnel waste water discharge is completely flawed, miscalculated, erroneous and inaccurate for the following reasons;</i></p> <p>i.) It is not in dispute, that the Project Proponent has made proper arrangements by</p> |

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| <p><i>drain on down slope passing through one side of the village, through pipe connected at the bottom of Sedimentation Tank. (Photograph 1, 2 & 3 of Annexure-1)</i></p> <p><i>It was also recommended earlier by the Joint Committee that "J&K PCC is required to take action for non-compliance of the terms & conditions of Consent to Operate (CTO) and the directions given to the Project Proponent".</i></p> | <p>constructing a Sedimentation Tank having 03 chambers, as per the recommendations of the earlier factual report of the Joint Committee, however it is wrongly alleged that the unsettled tunnel muddy water is being discharged into the drain through a pipe connected at the bottom of Sedimentation Tank.</p> <p>ii.) It is clarified that there is no case of 'non-compliance' as the Joint Committee has wrongly observed or misconstrued that the flush pipe was main flow pipe which is at the top of the tank. In fact, the pipe connected at the bottom of the Sedimentation Tank is meant for the purpose of flushing the slush at the designated area on the acquired land of the northern railways and the pipeline at the top of the tank is used to discharge the water after completion of the Sedimentation process.</p> <p>iii.) It is further clarified that the photograph filed by the Joint Committee with its report and enclosed as <u>Annexure-1 at running Page 347</u> has been clicked from another angle which shows both the flush and flow pipes separately which were present even at the time of the construction. Hence, there is no case of 'non-compliance'. Colored photographs showing clear</p> |
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| | | <p>placement of flush and flow pipes are annexed herewith and marked as <u>Annexure R-8/36 (Colly.)</u>.</p> <p>iv.) Even otherwise, the tunneling work is progressing towards completion and the flow of water is already moved to the opening of the tunnel i.e. towards Jammu end and water line of Tunnel T77D is permanently plugged, whilst ensuring that no de-watering is done towards village i.e. Channar side. In this regard, proper intimation has been given to IRCON i.e. Respondent No. 7. Copy of Letter dated 06.04.2023 issued to IRCON is annexed herewith and marked as <u>Annexure R-8/37</u>.</p> <p>v.) Furthermore, IRCON vide letter dated 06.04.2023 informed Dy. Commissioner, Ramban that the Project Proponent has permanently channelized the water flow towards the Jammu end and temporary water line of Tunnel T-77D is permanently plugged, whilst ensuring that no dewatering will be done towards Channar end. Copy of Letter dated 06.04.2023 issued by IRCON to Dy. Commissioner, Ramban is annexed herewith and marked as <u>Annexure R-8/38</u>.</p> |
| 2. | <p>Complied with. <i>Joint Committee has observed</i></p> | <p>No response is required, since there is no non-compliance.</p> |

| | | |
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| | <p>that Project Proponent has provided pucca drain (on down slope natural drainage passing through one side of the village). Further, the concrete ramps over the pathways/ crossing points over drain have also been provided.</p> | |
| 3. | <p>Non-Compliant with regard to tunnel waste water.</p> <p>A sedimentation tank comprising of 03 chambers for the treatment of waste water was found, but without any arrangement for still being discharges into drain.</p> | <p>Observation of the Joint Committee to the extent that there is 'non-compliance' with regard to tunnel waste water discharge is completely flawed, miscalculated, erroneous and inaccurate for the following reasons.</p> <p>In response to Objections at S. No. 3 of the table, the response/ objections mentioned at S. No. 1 of this table may be read as part and parcel in response to the present paragraph, contents thereof are not repeated for the sake of brevity.</p> |
| 4. | <p>Complied with, but further action required.</p> <p>It is verified by the Joint Committee that a gabion wall has been provided to retain the muck alongwith the bottom of the dump in railway acquired land.</p> <p>However, it was observed that a small portion of the soil has started sliding down just below the gabion wall provided by the proponent near Northern face of tunnel (Photograph-7 of Annexure-4. It is recommend that slop stability is ensured by the proponent, before leaving the</p> | <p>Although, the Joint Committee has observed that the Project Proponent is compliant as it has constructed gabion wall to retain the muck and other safety measures have been adopted, however on the basis Photograph No. 7 i.e. part of Annexure-7, the Joint Committee has observed that small portion of the soil is sliding down just below the gabion wall.</p> <p>- It is clarified that the observation of the Joint Committee is not correct, since the entry point near the tunnel</p> |

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| | <p><i>site.</i></p> | <p>is not within the scope of work of the Project Proponent.</p> <ul style="list-style-type: none"> - Some other Company is working on the portal development, where Joint Committee has observed sliding of soil. Hence, the non-compliance is not on the part of the Project Proponent. - It is submitted that the Project Proponent has taken all the remedial measures on the directions of the Joint Committee and has started the work of 'slope stabilization', however the Applicant and his family members created hinderances at site which delayed the progress. - As regard the hinderances created by the Applicant and his family members, the Project Proponent has filed a Police Complaint on 30.04.2023 at Banihal Dist. Police Station. Copy of Complaint dated 30.04.2023 addressed to Police Station, Banihal is annexed herewith and marked as <u>Annexure R-8/39</u>. - Considering the seriousness of the situation, the Police took cognizance of the Complaint and registered FIR against the persons who created hinderance at the Project site. - FIR No. 104/2023 has been registered against the Applicant and his family members. In fact, the issue was also raised before the Ld. District Magistrate, Ramban who had provided |
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| | | possible assistance by directing the Ld. Sub-Divisional Magistrate, Banihal to provide possible assistance to the Project Proponent towards completion of the Project. Copy of Letter dated 02.05.2023 issued by the Office of DM, Ramban is annexed herewith and marked as <u>Annexure R-8/40</u> . |
|--|--|---|

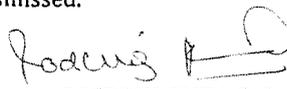
- v. **Other than the objections, the Joint Committee has also recommended that apart from providing compensation for the loss of crops, the remediation of agricultural land by the Project Proponent is required.**
- First and foremost, it is clarified that the compensation assessed by Chief Agricultural Officer, Ramban i.e. an amount of Rs. 69,084/- (Rupees Sixty Nine Thousand and Eighty Four Only) is qua remediation of the land only and the said amount has already been deposited by the Project Proponent. It is submitted that the said land neither belongs to Applicant nor other villagers and the said land is acquired by Government as per revenue records. Copy of revenue records showing the ownership of the said agricultural land annexed herewith and marked as **Annexure R-8/41**.
- vi. The above stated factual submissions and clarifications are duly supported with documentary evidence and deals in entirety with the observations and suggestions made in the said 2nd report of the Joint Committee and thus, nullifies the false claims of the Applicant. Moreover, these clarifications also put a question mark on the observations of the Joint Committee which are based on incorrect assessment of the site in question. Most importantly, the observation contained in other two action taken reports is completely opposite to the observations of the Joint Committee. It is submitted that the Project has complied with all the recommendations and suggestions given earlier.
5. Apart from the above, the Project Proponent through its Project Manager has submitted an undertaking cum affidavit on 08.05.2023 before the office of J&K Pollution Control Committee, giving following categorical declarations;

- i.) *Natural Water seepage is permanently diverted due to completion of tunnel excavation works and plugging of portal T-77 A as per design and drawing.*
- ii.) *The seepage water is now flowing through drainage system from T_77 D through gravity towards Jammu end.*
- iii.) *The sedimentation tank structure is dismantled on the directions of IRCON International Ltd. formerly known as Indian Railway Construction International Ltd., as there was no use of sedimentation tank, as dewatering is permanently plugged from T-77A.*
- iv.) *On the recommendation of J&K Pollution Control Committee (Joint Committee) vide letter no. PCB/NGT/130/023/06-08 dated 17.04.2023 slope stabilization works have been started accordingly and will be completed soon.*

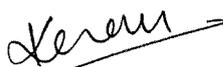
Copy of undertaking cum affidavit submitted on behalf of the Project Proponent is annexed herewith and marked as Annexure R-8/42.

6. In the foregoing facts and circumstances, the Original Application is liable to be dismissed, as the same is based on false assertions and allegations. The earlier factual report, as well as 2nd Report of Committee fails to prove any negligence, violation, non-compliance or fault on the part of the Project Proponent, hence the said reports may only be considered to the extent of suggestions provided by the Joint Committee, to which the Project Proponent has already taken steps for implementation and has submitted the progress report to the concerned department.

It is, therefore, most respectfully prayed, that the Objections to the 2nd Report of the Joint Committee may be taken on record and basis the clarifications and documentary evidence submitted by the Project Proponent, the captioned Original Application may kindly be dismissed.


RESPONDENT NO. 8

THROUGH


KNM & PARTNERS LAW OFFICES
VIJAY NAIR/ MANORANJAN SHARMA/KARAN RAJPUROHIT
COUNSELS FOR THE RESPONDENT NO. 8
1ST FLOOR, THE GREAT EASTERN CENTRE,
70, NEHRU PLACE, BEHIND IFCI TOWER
NEW DELHI-110019

PLACE: DELHI
DATED: 13.05.2023

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI

ORIGINAL APPLICATION NO. 705 OF 2022

IN THE MATTER OF:

ASGAR AHMAD NAJAR

...APPLICANT

Versus

MINISTRY OF ENVIRONMENT, FOREST AND
CLIMATE CHANGE & ORS.

...RESPONDENTS

AFFIDAVIT

I, Jodhraj Baid, Son of Sh. Peer Chand Baid, aged about 69, authorized representative of Respondent No. 8, available at B-5/86, Safdarjung Enclave, South-West, Delhi-110029, do hereby solemnly affirm and state as under:

1. I say that I am the authorized representative of the Respondent No. 8 Company abovenamed and aware of the facts of the instant objections, based on the records of the Respondent No. 8 in its regular course of business and hence, competent to swear and affirm the instant affidavit.
2. I have read through and understood the contents of the accompanying objections and state that the contents thereof have been drafted under my instructions and that the same are true and correct to the best of my knowledge and belief based on the records maintained by the Respondent No. 8 in its regular course of business.

Jodhraj Baid
DEPONENT

VERIFICATION:

I, Jodhraj Baid, the above-named deponent, do hereby solemnly affirm that the contents of the above affidavit are true and correct to the best of my knowledge as derived from the records of the Respondent No. 8 Company, no part of it is false or incorrect and nothing material has been concealed therefrom.

Verified at 13 MAY 2023 on this 13 day of May 2023.

ATTESTED

NOTARY PUBLIC
DELHI (INDIA)

13 MAY 2023

Jodhraj Baid
DEPONENT

Notary
I identify the deponent who
has signed in my presence





AN ISO 9001 Certified Company

ABCI INFRASTRUCTURES PVT. LTD.
USBRL T-77 (D) Tunnel Project
 Bankoot, Banihal Distt. Ramban J&K - 182146
 E-mail: abciinfra@banihal@gmail.com | Website: www.abciinfra.com

Ref No: - ABCI/IRCON/J&K/PA/2023-24/351

Dated: 15/04/2023

 The Sub Divisional Magistrate,
 Banihal.

Dist. Ramban, J&K – 182 146

Job: Construction of Balance Work for Tunnel T77D (Km146.62 to 148.36 Approx.) on the western side of Bichellari River on Katra-Banihal Section of USBRL Project – Package T-77D (R) and Construction of Tunnel T74R Balance work at North Portal from Km 130/950 to Km 133/910 Approx. on Katra- Banihal Section of USBRL Project – Package T-74R-B(N)

Ref No: LOA No. IRCON/J&K CELL/JAT/14/1014/K-B/T-77DR/420, Dated: 05.07.2019

Ref 2: Order Passed by Hon'ble NGT on Feb-10-2023.

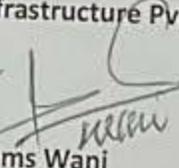
Subject: Original Letter No: 706/2022, titled Asgar Ahmed Nahjar v/s Ministry of Environment, Forest and climate Change & Ors.

Dear Sir,

With reference to the above cited subject & As per the directions of received from Worthy District Magistrate, We are hereby depositing a cheque of Rs: 69084/- vide cheque No: "311568" for damages assessed by Chief Agriculture Officer Ramban (Rabi & Kharif Crops)

Thanking and assuring your best services always.

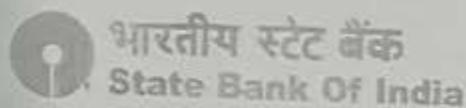
For ABCI Infrastructure Pvt. Ltd


 Authorised Signatory
 Nadeem Shams Wani
 Project Manager (T77D)

CC:

1. Worthy District Magistrate Ramban





भारतीय स्टेट बैंक

State Bank Of India

(02303)-BANIHAL
DISTT- DODA
JAMMU AND KASHMIR, JAMMU AND KASHMIR 182146
Tel : 1998 255733 Fax : IFS Code : SBIN0002303 SWIFT :

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PAY

SDM Banihal.

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Proprietor

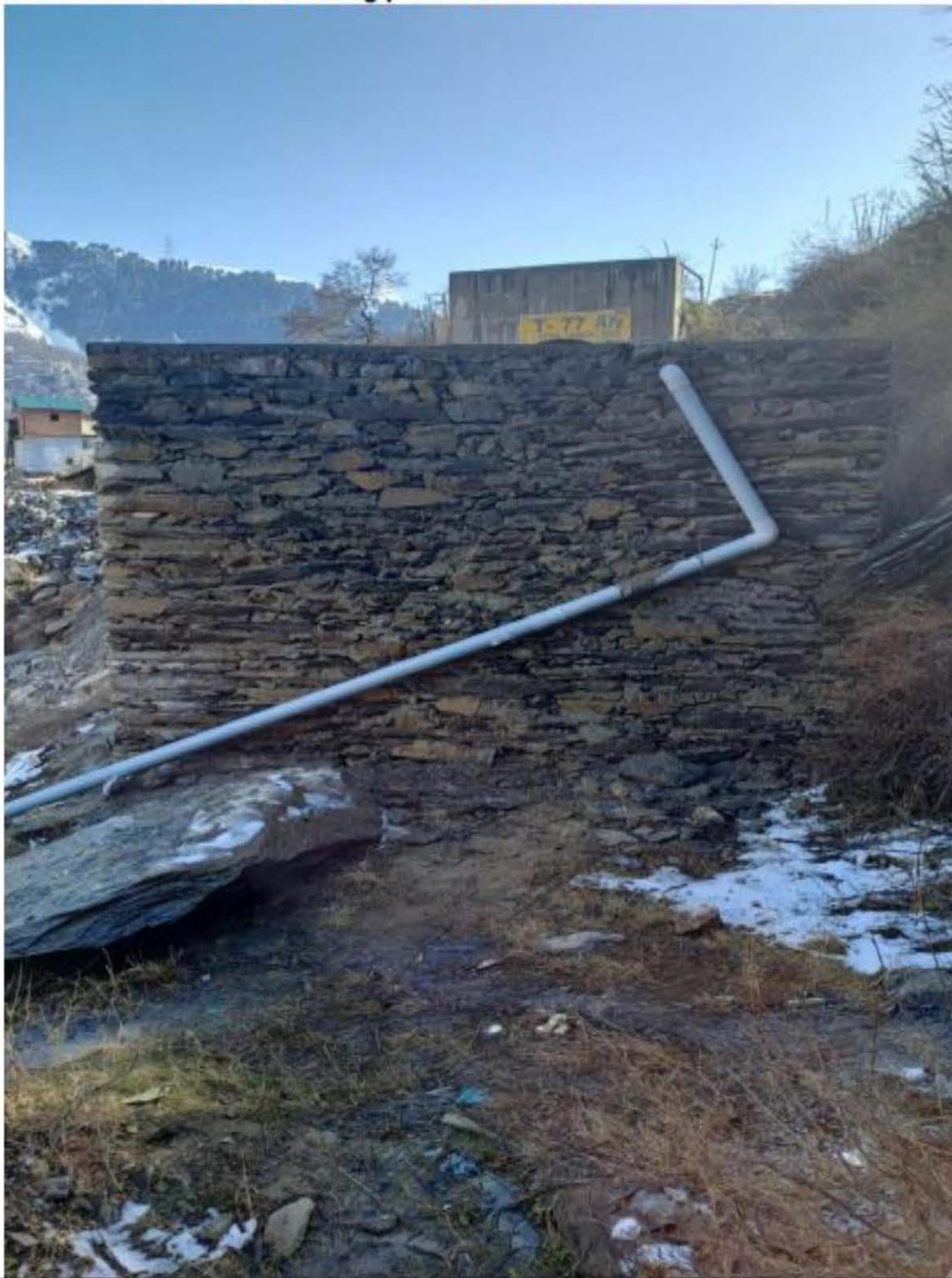
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ANNEXURE R-8/36 (COLLY.)





b- Installation of closed pipes for transporting the waste water (muddy water) from Sedimentation tank to existing pukka concrete drain.





ABCi INFRASTRUCTURES PVT. LTD.



AN ISO 9001 Certified Company

USBRL T-77 (D) Tunnel Project

Bankoot, Banihal Distt. Ramban J&K - 182146
E-mail: abciinfrabanihal@gmail.com | Website: www.abciinfra.com

Ref No: - ABCI/IRCON/J&K/CA/T77D/2022-23/362.

April 06th 2023

To
The General Manager
IRCON International Ltd.
USBRL Project Office, Banihal
Vill. Karawah, Dist. Ramban, J&K – 182146



Project : Construction of balance work for Tunnel T-77D (km 146.60 to 148.36 Approx.) on the Western Side of Bichelri River on Katra – Banihal Section of USBRL Project, J&K (Package T-77D-R).
Sub: Permanent diversion of water coming from tunnel T77D & subsequently plugging of temporary water line of T77A
Ref. : LOA no. IRCON/J&K CELL/JAT/14/1014/K-B/T-77D-R/420/5264 dt. 18.12.2019

Dear Sir,

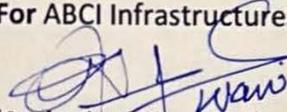
With the above cited subject, please be informed that the tunnel T77D of USBRL Project, a project of national importance is under construction at Bankoot Banihal Distt Ramban of J&K UT. The breakthrough of this tunnel was achieved successfully on 03.03.2022 and subsequently benching work was completed by July-2022, till this date dewatering was done from North portal of T77D & after completing the benching water flow by gravity towards south end. Due to protection work at Junction the water was temporally discharged towards the Channar Nallah and construction of Nallah was also done by construction of Drain.

Now as the mining of tunnel T77D is successfully completed and water is permanently channelized towards the Jammu end and water line of T77A is permanently plugged and hence forth no dewatering will be done towards Channar End.

This is for your your kind information please

Thanking you and assuring you our best service all the time, we remain.

For ABCi Infrastructures Pvt. Ltd.


(Authorized Signatory)

CC: DGM, T-77D. For information please.



इरकॉन इन्टरनेशनल लिमिटेड
(भारत सरकार का उपक्रम)



IRCON INTERNATIONAL LIMITED

(A GOVT. OF INDIA UNDERTAKING)

An Integrated Engineering and Construction Company

Banihal Office :

USBRL Project,
Vill-Krawah, Post-Banihal,
Distt-Ramban, J&K-182146
Tele Fax : 01998-255708

Jammu Office :

USBRL Project Office
Satyam Complex, Marble Market,
Jammu-180011.
Tel : 0191-2484842, Fax : 0191-2484812

IRCON/1014/J&K/14/1014/T-77D / 414

Date:06.04.2023

Dy. Commissioner,
Distt. Ramban- 182146,
Jammu-Kashmir

Sub: Construction of Balance Work for Tunnel T-77D (Km 146.60 to 148.36 Approx.)
on the Western Side of Bichleri River on Katra - Banihal Section of USBRL
Project, J&K (Package: T-77D R).

Reg: Permanent Diversion water coming from Tunnel T-77D & subsequently plugging
of temporary water line of T-77A.

Ref: ABCI Letter No. ABCI/IRCON/J&K/CA/22-23/362, dated:05-04-2022

Dear Sir,

With reference to the above letter, M/s. ABCI have informed that the Tunnel water is permanently channelized towards the Jammu end and water line of Tunnel T-77D is permanently plugged and also ensured that no dewatering will be done towards Chanar end and the copy of referred letter is enclosed herewith.

This is for your kind information please.

Thanking you,

For and on behalf of
Ircon International Ltd.

 06/04/2023.
(P. Swaminathan)
GM/Civil/T-77D

- Copy to: 1. CGM/BNL, for kind information please.
2. Distt officer, Pollution Control Board Ramban for kind information please,
3. PM/ABCI for information and necessary action please.



Ref: ABCI/IRCON/T77D/J&K/PA/2022-23/351

Date: 30.04.2023

To,

**The Station House Officer,
Banihal Distt: Ramban-182146.**

Job: Construction of balance work for Tunnel T-77d (Km 146.60 to 148.36 approx.) on the Western Side of Bichelri River on Katra - Banihal Section of USBRL Project, J&K. (Package T-77D-R)

Sub: Lodging of FIR against the below mentioned persons for interference in Project Works.

Dear Sir,

Please be informed that today on dated 30.04.2023, at around 11:49 AM workers of our Sub-Contractor M/s Sima Tariq Khan were working for compliance of an NGT/Joint Committe/PCB case for constructing a retaining wall near opening of portal at T-77A Village Chanar Bankoot Banihal.

One person Namely Ishaq Najar s/O Gaffar Najar R/O Chanar Bankoot Banihal approached the sub contractor workers to stop the work which was followed by the below mentioned persons:

1. Arshid Najar S/O Ashraf Najar R/O Chanar Bankoot Banihal
2. Manzoor Ahmed Najar S/O Ghulam Mohd Najar R/O Chanar Bankoot Banihal
3. Asgar Ahmed Najar S/O Gh. Mohd Najar R/O Chanar Bankoot Banihal
4. Vicky Najar S/O Rashid Najar R/O Chanar Bankoot Banihal
5. Rashid Najar S/O Saleem Najar R/O Chanar Bankoot Banihal
6. Nargis Begum W/O Asgar Ahmed Najar R/O Chanar Bankoot Banihal
7. Masrat Begum W/O Aijaz Najar R/O Chanar Bankoot Banihal
8. Rozy Begum W/O Manzoor Najar R/O Chanar Bankoot Banihal

The above mentioned persons stopped the work at tunnel Portal & started beating ruthlessly the workers of sub-Contractor especially Fayaz Ahmed Naik S/O Alif Din Naik R/o Khari Banihal who was manhandled by Vicky Najar S/o Rasheed Najar and another

person. His mobile phone was snatched and unparliamentarily languages were used by all of them. He was thrown on ground and again beaten by the same persons.

Meanwhile our Project Manager Mr. Nadeem Shams S/o Shamas Din Wani R/O Kharpora Banihal and another Project Manager Brijesh Kumar were coming out of tunnel after their routine inspection and were totally unaware of the situation outside the Tunnel Portal T77A.

Upon reaching near the portal they were stopped by all the above mentioned and were kept as hostage for around Approx 2 Hrs. Our Project Manager Mr. Nadeem Shams S/o Shamas Din Wani R/O Kharpora Banihal and another Project Manager Mr. Brijesh Kumar were surrounded and manhandled/Pushed, misbehaved by all of the above persons while using unparliamentarily language, snatching of Mobiles and also mobile was thrown on ground. Our Project Manager was having some important Project notes along with a cash of approximately 35000/- and some change which was snatched by any of the above mentioned in the list. Their intension was life threatening for our Management staff but due to intervention of Police personals present at site, the serious consequences by the aggressive mob mentioned above were avoided.

It is pertinent to mention that Asgar Najar & Manzoor Najar are already having an permanent Prohibitory Injunction granted by Hon'ble Court.

Since that time all our Project work activities from T-77A South Portal are being stopped by the above mentioned persons resulting in heavy financial loss to the Project of National Importance.

In this regard we request your good self to lodge an FIR against all the above mentioned and initiate strict action as per law.

Yours immediate action in this regard would be highly appreciated.

Thanking You.

For ABCI Infrastructures Pvt. Ltd

Authorised Signatory

Nadeem Shams Wani
 (Project Manager)

CC:

1. Deputy Commissioner Ramban
2. SSP Ramban
3. SDM Banihal/Tehsildar Banihal
4. SDPO Banihal
5. CGM IRCON
6. GM IRCON

In the Court of Munsiff Banihal

Present: Saloni
(No: 00267)

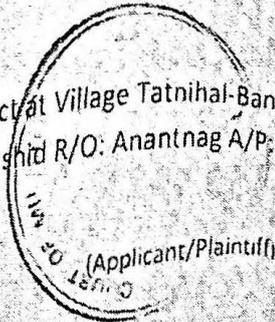
Date of Decision

File No.

Date of Institution

IN THE CASE:-

ABCI INFRASTRUCTURES PVT LTD. (Railway Project at Village Tatnihal-Banihal)
through Manager Sajad Arif S/O: Hakim Abdul Rashid R/O: Anantnag A/P:
Tatnihal Tehsil Banihal District Ramban.



V/S

1. Asgar Ahmed Najar
 2. Manzoor Ahmed Najar
- Both sons of Ghulam Mohd Najar
Both residents of Chanard Bankoot Tehsil Banihal District Ramban.

..(Non-Applicants/Defendants)

In the Matter of: Suit for Permanent Prohibitory Injunction.
AND

In the Matter of: Application for grant of temporary injunction in-terms of order 39
Rule 1 & 2 of CPC.
Vaseem Wani, Advocate for the Plaintiff.

ORDER

The instant suit for Permanent Prohibitory injunction has been presented before this Court by the plaintiff. It is stated. That the plaintiff is employee Admin. Manager T-77D, National Mega Railway Project, which of strategic importance to the country, the work of the project is time bound. That the work of the project is being executed in the land acquired by northern railway. That number of times the defendants stopped the construction site of the plaintiff, due to which huge loss has been occurred to the plaintiffs company and due to the stoppage of the work the plaintiffs company has suffered Rupees seven lacs of loss per day. That the defendants are using un-parliamentary language in violent manners and instigating the public to damage the property of the company and made injury to the officials and workers at the construction site. That due to unauthorized activities of the defendants, the terror has been created in the premises as well as in the residential campus of workers and staff. That the plaintiff and other authorized persons tried their best, but defendants are hell bend upon to cause an irreparable loss to national project. That the plaintiff has presented prima facie case which will in all probability succeed in trial balance of convince is also in favour of the plaintiff. That if the Hon'ble Court May not restrain the defendants from their unauthorized act of interference an irreparable loss may occur to the plaintiff which cannot be compensated later on by any means. That the Cause of action has accrued to the plaintiff on 20th day of march 2022, when the

defendants started interfering in the construction site, the plaintiff and other workers tried their best to stop the defendants from making injury to the plaintiff project, but the defendants are hell bent to cause serious prejudice to legitimate interests of the plaintiff.

Along with the main suit, the plaintiff have also filed an application under order 39r 1, 2 CPC, duly supported with an affidavit. The applicant has sought interim relief of temporary injunction and dispensation of prior notice provided under Order 39, Rule 3 CPC.

Heard the counsel for the applicant, it is stated in the application that the applicant has a prima-facie case, balance of convenience also lies in favour of the applicant and if the relief as is prayed for is not granted at this stage, the applicant would suffer irreparable loss which cannot be compensated later on by any means.

Having considered the above, I find that the applicant have the prima-facie case on the basis of their pleading read in the light of the annexure with the plaint, giving rise to a question for adjudication of this court, balance of convenience prima-facially seems to be in favour of granting the relief and if the relief which the applicant request for is not granted, the applicant will suffer irreparable loss.

In this back drop considering that the suit is of emergent in nature and that if the relief is not granted to the applicant at this stage, the suit would become infructuous, therefore application under O 39, R 3 CPC is allowed and requirement of prior notice is dispensed with.

Issue notice to the other side for filing of the objections. In the mean time, the non-applicants are restrained from interfering, trespassing in the construction of Railway Tunnel, situated at T-77D, (Chanard) Bankoot Tehsil Banihal District Ramban, till the final disposal of main suit.

The other side is at liberty to approach before this court for modification, cancellation and alteration even before the next date of hearing. Put up on 23.7.2022

Announced:

Sd/-
Munsiff Banihal

Copy of order forwarded to Nazir Tamilat Munsiff Court Banihal for Compliance.


MUNSIF, 6/22
BANIHAL



Government of Jammu & Kashmir
OFFICE OF DISTRICT MAGISTRATE, RAMBAN

Sub Divisional Magistrate,
Banihal.

URGENT

No: DMR/291-95

Dated: 02.05.2023

Sub: Hindrances created by certain locals in USBRL Project in Banihal section - **HLG's Mulaqaat directions thereof.**

It has come to the notice of the undersigned that below-mentioned persons are creating hindrances in smooth execution of USBRL Project at Tunnel T-77D, which connects T-74 (Tatnihal) with T-78 (Krawah):

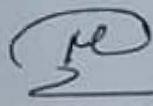
1. Ishaq Najar, S/o Gaffar Najar, Chanar, Bankoot.
2. Arshid Najar, S/o Gulam Mohd Najar, Chanar, Bankoot.
3. Manzoor Ahmed Najar, Chanar, Bankoot.
4. Asgar Ahmed Najar, Chanar, Banihal.
5. Vicky Najar, Chanar, Banihal
6. Rashid Najar. Chanar, Banihal

The above persons have been reported to have earlier also stopped work at USBRL sites, which has delayed the project and may affect its timebound completion.

The Police has taken cognizance and registered a case against them under FIR No.104/2023.

Since the project has reached a critical stage of completion, you are directed to ensure that the works on the USBRL Project in Banihal section, including T-77D, are executed without any local hindrances. You are also directed to ensure that the above-named persons do not create any further hindrances at the site.

The concessionaire companies executing the project have expressed a sense of insecurity due to hindrances and physical assaults at the work site for which Police has been taking cognizance.


 02.05.2023
District Magistrate
District Magistrate
Ramban (J&K)

Copy to:

1. Divisional Commissioner, Jammu, for kind information.
2. Sr. Superintendent of Police, Ramban, for informaiton.
3. Additional District Magistrate, Ramban, for information.
4. Chief General Manager, IRCON Internaational Limited, Banihal, for information and advice to provide security cover to the management/workforce at various USBRL sites.

ANNEXURE R-41

OFFICE OF THE SUB DIVISIONAL MAGISTRATE BANIHAL

(Email: sdmbanihal@gmail.com)

(Tel/Fax: 01998255077)

Project Manager,
ABCI Banihal.

NO: - SDMB/23/ 29-30

Dated: - 08-04-2023

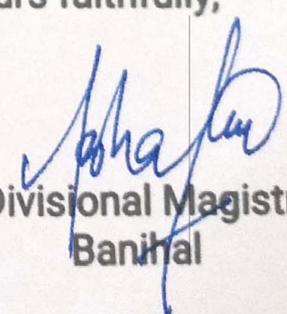
Sub: - Construction of Balance work for T77D (146.62 to 148.36 Approx.) on the western side of Bichleri River on Katra-Banihal Section of USRBL Project-Package T-77D (R) and Construction of Tunnel T74R Balance work at North Portal from Km 130/950 to 133/910 Approx. Katra Banihal section of USRBL project -Package T-74R-B(R).

Sir,

Kindly refer to your office letter No. ABCI/IRCON/J&K/PA/2023-24/350 Dated.09-03-2023 regarding the subject cited above, in this connection,undersigned sought report from Tehsildar Banihal vide this office letter No. SDMB/23/19-20 Dated.05-04-2023 wherein Tehsildar Banihal vide his office letter No. OQ/45 Dated. 08-04-2023 submitted factual report/ detailed report. (Copy of report is enclosed for ready reference).

Hence Forwarded for your information and further necessary action at your end please
(Encls:- 05 Leaves)

Yours faithfully,


Sub Divisional Magistrate
Banihal

Copy to the:

1. Tehsildar Banihal for information.

نائب تحصیلدار بانہال

تذکرہ قابضین عرصہ ایک ماہ بانہال

Date do-8-4-2023

no: 00145

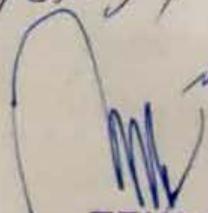
Subject:- Construction of balance work for Tunnel T-77D
 (Km 146.62) to 148.36 (approx) on the western side
 of Richleri Area on Katra-Banihal Section USBRL
 Project - Package T-77D (K) and Const. of Tunnel T-77
 balance work and north Portal for Km 138/150 to Km
 133/1910 approx. on Katra-Banihal Section of USBRL
 Project - Package T-74K-6 (N)
 Date do-05-04-2023
 Ret no: SDHB/23/19-20

قابضین

حادثہ مندرجہ عنوان العدم میں گریڈنگ سے متعلقہ کاموں کے متعلق
 ریورٹ تیار کیا گیا ہے جس سے عیاں ہوا ہے کہ اس کے متعلق
 بعض کاموں کا ٹرنس فیرنگ ABC کی شکل میں کیا گیا ہے اور
 اس کے لئے طلبہ کی شکل میں کیا گیا ہے اور اس کے لئے
 اس کے لئے طلبہ کی شکل میں کیا گیا ہے اور اس کے لئے
 اس کے لئے طلبہ کی شکل میں کیا گیا ہے اور اس کے لئے
 اس کے لئے طلبہ کی شکل میں کیا گیا ہے اور اس کے لئے

Stamp duty Rate سے اس وقت کے Stamp duty Rate
 1689030/14 سے اس وقت کے Stamp duty Rate
 14278/14 سے اس وقت کے Stamp duty Rate

لکھا ریورٹ چھاپی و لٹو سے لکھی گئی ہے
 لکھی گئی ہے لکھی گئی ہے لکھی گئی ہے


 TEHSILDAR
 BANIHAL

نائب تحصیلدار (04) بانہال
 [For Seal]

بمقام جہاز سالہ بابت قریب 1948 بابت کوئٹہ شہر تحصیل رام بن ضلع ڈوڈھہ (9)

| بیمہ نمبر | بیمہ گھرانہ | نام مالک حوالہ | نام کاشتکار حوالہ | بیمہ خسارہ کی تفصیلات | تقدیر بقید قسم | مکان جو سزا اور آوارہ نشانی ہے | محلہ جہاں حقیت در نظر آ رہی ہے | مطالعہ تشریح مال حوالہ | حوالہ انتظامات | کیفیت |
|-----------|-------------|-------------------|----------------------|-----------------------|----------------|--------------------------------|--------------------------------|------------------------|----------------|-------|
| ۱۰۵ | ۲۹۷ | سرکار | موقوفہ سرکار | ۲۲۸ ۵۸۲ | ۱۰۰ | ۱۰۰ | ۱۰۰ | ۱۰۰ | ۱۰۰ | ۱۰۰ |
| / | | | | | | | | | | |

نوٹ:- نقل مطابق اصل ہے

Fayaz Ahmed Nalki
Fayaz Ahmed Nalki
Garwari Halqa.....

(7)

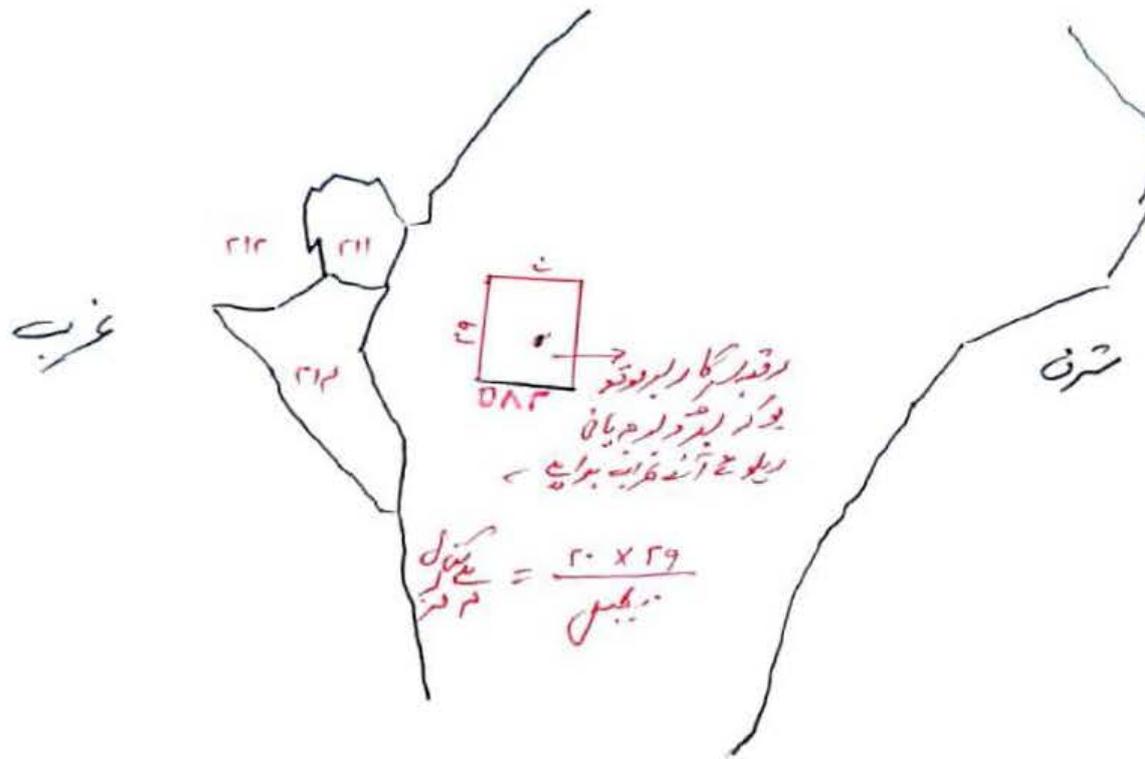
خسرہ گرداوری بابت موضع سبکوٹ تحصیل بانہال ضلع رام بن

| 2022 ذول | قسم زمین | تعداد درتیبہ | نام کاشتکار مع احوال | نام مالک مع احوال |
|-------------------------------|----------|--------------|----------------------|-------------------|
| انتقالات حقیقت کاشت و لگان | جنس | کنال مرلہ | | |
| | خالی | ۷ | موقوفہ سرکار | سرکار |
| | ۷ | ۴ | | |
| | ۴ | ۱۰ | | |
| | | | | ۲۲۸ ۵۸۲ |

نوٹ: نقل مطابق اصل ہے۔

Hayaz Ahmed Nail
Patwari Hatqa

۱۶) منجملہ زمین کا پتہ ۵۸۲ رقبہ لکھنؤ برہمنہ کے کالہ جوامتہ درمنہ ہنگوٹ
 شمال



صوبہ
 لوٹ منجملہ زمین لکھنؤ برہمنہ کے کالہ جوامتہ درمنہ پانی دیوے آئے فریہ ہوئے

(Signature)
 Fayaz Ahmed Nail
 Patwarī Hatga.....

PAGE NO 01

From,
SDM, Banihal

To,
Project Manager ABCI Banihal

Letter No. SDMB/23/29-30, Dated 08.04.2023

Letter in English No Translation Required**Page No. 02**

Writing in Urdu

Translation in English as mentioned below:

From
Tehsildar Banihal

To
SDM Banihal
Letter No. 00145, dated 08.04.2023

Subject: Construction of Balance work for Tunnel T77D (Km 146.62 to 148.36 approx.) on the western side of Bichelri River on Katra- Banihal section of USBRL Project - package T 77D ® & construction of Tunnel T74R balance work at North portal from Kmr. 130 /950 to 133/910 approx. on Katra- Banihal section of USBRL Project – package T74R-B (N)

Ref. No. SDMB/23/19-20, Dated 05.04.2023.

Dear Sir,

Reference is made to above cited subject and your order to submit the report. It has been found that in the area of Bankoot-Channar M/s. ABCI Company is working for railways project as mention above subject. The water coming from the tunnel is flowing through the Nallah located in the village of Channar, Bankoot, Banihal. The company has constructed a concrete wide drain for the flow of water which is flowing to the area Khasra No. 882 Min. Which was previously cultivated by the locals of the area, the current position of the said area comes under (Maqbooza Sarkar) Government Land.

The stamp duty rate at present in Bankoot area for agricultural land (Aabi) is Rs. 16,89030/- Per Kanal & for Non-agricultural (Khushki) land is Rs. 1401278/- Per Kanal as per the set Govt. rates for the year 2023.

Thus, the report is hereby submitted along with Jamabandi/Girdawari/Titma for your kind submittal.

SD/- Tehsildar Banihal

Attached 04 Pages.

Translation Page 03

The letter mentions the same report as above submitted by Patwari to Tehsildar Banihal.

REVENUE RECORDS Page 4 to Page 6**Page No. 04****Paper of Jamabandi**

No. Khewat =105

No. Khata = 497

Owner Govt. (Sarkar)

Present position = Occupied by Govt. (Maqbooza Sarkar)

No. Khasra = 648/582 (Gair mumkin Nallah)

Page No. 05**Khasra Girdawari**

No. Khasra 648/582 (Owner Occupied by Govt. (Maqbooza Sarkar)

07 Kanals (Aabi Rawani) Flood Area

03 Kanals (Gair Mumkin Banna) Waste land

Total = 10 kanals

Page No. 06

Titma (Map of the area)

BEFORE THE J & K POLLUTION CONTROL COMMITTEE

Sheikh-Ul-Alam Campus, Behind Govt. Silk Factory Rajbagh, Srinagar,
Jammu and Kashmir-190008

Re: UNDERTAKING-CUM-AFFIDAVIT ON BEHALF OF M/S ABCI INFRASTRUCTURES PVT. LTD. IN REFERENCE TO O.A. NO. 706/2022 (ASGAR AHMAD NAJAR VS MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE & ORS. PENDING BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL AT NEW DELHI)

I, Nadeem Shams Wani, S/o. Shams Ud Din Wani R/O Kharpora Banihal aged about 42 years, Project Manager of ABCI Infrastructures Pvt. Ltd., available at T77A Bankoot do hereby solemnly affirm and state as under:

1. I say that I am the Project Manager of ABCI Infrastructures Pvt. Ltd and being aware of the facts of the instant matter pending before the Hon'ble National Green Tribunal Delhi, I am competent to affirm the instant Undertaking-cum-Affidavit, which is being executed and filed in relation to the matter pending in O.A. NO. 706/2022 titled "Asgar Ahmad Najjar Vs Ministry of Environment, Forest and Climate Change & Ors. pending before the Hon'ble National Green Tribunal at New Delhi.
2. I say that the natural water seepage is permanently diverted due to completion of tunnel excavation works and plugging of portal T77-A as per Design & Drawing. I further say that the portal was earlier used for dewatering purposes only. The seepage water is now flowing through drainage system from T77-D through gravity towards Jammu end.
3. I say that the sedimentation tank structure is dismantled on the directions of IRCON International Limited formerly know as Indian Railway Construction International Limited as there was no use of sedimentation tank, as dewatering is permanently plugged from T77-A.
4. I say that on therecommendation of J&K Pollution Control Committee (Joint Committee) vide Letter No. PCB/NGT/130/023/06-08 dated 17.04.2023 slope stabilization works have been started accordingly and will be completed soon.
5. I say that I have gone through and understood the contents of the foregoing Undertaking-cum-Affidavit and state that the same are true and correct to my knowledge and belief derived from the records maintained by the Company, no part of it is false or incorrect and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION:

1, the deponent above-named, do hereby verify that the contents of the foregoing Undertaking-cum-Affidavit are true and correct to the best of my knowledge and based on record maintained by the Company, in its regular course of its business, no part of it is false or incorrect and nothing material has been concealed therefrom.

Verified at Banihal on this 08th day of May, 2023.

DEPONENT

Solemnly Affirmed Sworn before me
and Hence Attested

NOTARY PUBLIC
Adv. Nabeel Kizilid



Identified by
S/o Atiq Ahmad
R/O Kharpora Banihal
S/o Atiq Ahmad