

**BEFORE THE NATIONAL GREEN TRIBUNAL AT NEW-
DELHI, BENCH AT PUNE**

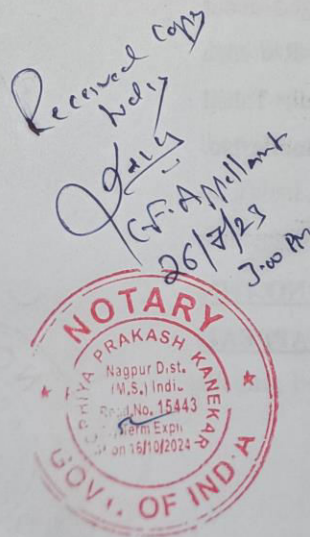
Appeal No. 55/2022

APPELLANT : Shri Deochand Danduji Karemore,
Aged about 61 years, Occupation
Business, R/o Bharat Nagar, Nagpur
Contact No. 8657709040, Email ID
hiteshgedam22@gmail.com

-Versus-

RESPONDENTS: 1. Ministry of Environment, Forests &
Climate Change through
C.B.Tahsildar, AIGF (Central) Office at
Integrated Regional Office, Ground
Floor, East Wing, New Secretariat
Building, Civil Lines, Nagpur, Ph.No.
0172253133, Email ID apccfecentral-
ngp-met@gov.in

2. The Principal Secretary (Forests),
Revenue & Forest Department,



Office at Hutatma Rajguru Chowk,
Madam Cama Marg, Mantralaya,
Mumbai-32, Ph.No. 0722024588,
Email ID apccfecentral-mum-
mef@gov.in

3. **Ministry of Environment, Forests & Climate Change**, through Regional Officer, Office at Regional Office (Nagpur), West Central Zone, 104-128, Red Cross Road, Sadar, Nagpur, Ph.No. 0712251019, Email ID rdcz@fsi.nic.in
4. **Maa Umiya Audyogik Vasahat Maryadit**, Nagpur through its Director Shri Jivraj Ratansi Patel, Aged about Major, Occupation Business, R/o Maa Umiya Dham, Mouza Tarodi, Tahsil Kamptee, District Nagpur, Mobile No. 9373210426

**OBJECTION ON BEHALF OF RESPONDENT NO.4 IN
RESPECT OF MAINTAINABILITY OF THE APPEAL
FILED BY THE APPELLANT.**



The Respondent No.4 most respectfully begs to submit as under :

1. That, the present appeal itself is not maintainable one under the provisions of law. That, this Respondent already filed an objection before this Hon'ble Tribunal. That, Respondent No.4 is a society registered under the Maharashtra Co-operative Societies Act, 1960 and the civil suit in question have not been decided and the matter in question is also subjudice before the Civil Court and the Civil Court also passed an order for status quo. That, the civil suit bearing C.S. No.45/16 already subjudice before the Civil Court. That, the matter in question is in between Respondent No.3 and 4. That, the Appellant also not disclosed how the Appellant is aggrieved against the order passed by the Court. That, the Appellant is residing at Bharatnagar and the address in question also very specifically disclosed. That, the Appellant is not a cultivator, not a resident of the area, also not a owner so also not residing in the same village nor a Sarpanch of the village. The aforesaid property comes within the jurisdiction of Tahsil Kamptee, District Nagpur. That, the Appellant is a resident of Bharat Nagar, Nagpur. That, the Appellant do not have any agricultural property or any property adjacent to the same property or any property in question. The Appellant alleging before the Court and have filed a writ petition and the



writ petition also disposed off. That, the aforesaid appeal does not come within the purview of Public Interest Litigation as well as this case also not falls under the purview of Public Interest Litigation. That, if the Appellant is at all aggrieved against the order of any Court, the Appellant has to file a Public Interest Litigation separately. However, the matter in question i.e. order passed by the Commissioner also have been challenged i.e. on pages 65 & 66 bearing W.P. No. 5348/19 by the Appellant. That, the order of the Court is very specific one. The Civil Suit No. 45/16 already subjudice before the Court in respect of Khasra No.88 i.e. the encroachment, the S.D.O. got the measurement and the boundaries are not tallied. That, this Respondent have shown his interest as the property in question does not fall within the forestry. Therefore, this Respondent has approached before the Forest Department. That, there was also agreement between the parties in respect of in lieu of Survey No.88 other property has to be given by the Respondent No.4 at his cost and the land at Wardha to the Government. That, accordingly this Respondent has already executed a sale deed and by virtue of sale deed the property has been purchased from Wardha and handed over in lieu of Survey No.88.

2. That, the property in question does not fall within the jurisdiction of the Collector. However, without approaching

before the Forest Department the Appellant have approached before the S.D.O. and the S.D.O. passed a very specific order. Thereafter, the Appellant approached before the Commissioner and the Commissioner have disposed of the case and against the said order the party has approached before the Hon'ble High Court and the Hon'ble High Court also decided the matter. That, this Respondent has purchased the property from its own funds at Wardha and handed over to the Forest Department at Wardha without consideration and the present Appellant has not challenged the order in respect of execution of the sale deed which took place between the parties.

3. That, the property in question was looking after by the Collector. The Collector has delegated a power by virtue of the provisions of law to the Gram Panchayat. However, the property in question if a forest property and Maharashtra Land Revenue Code is a different Act, the Forest Act is different one as well as the Village Panchayat Act is also different one. However, the present Appellant have approached without any legal substance. That, it is to made clear that Appellant is not a bonafide resident of the same village, also not belonging to the same Taluka. The Appellant also has got no property in the vicinity of Survey No.88. The Appellant is also not a Sarpanch or

holding any status. However, the property which is far away, for which the question of nuisance or pollution does not arise.

4. That, the matter in question once it is decided by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur and it has already been placed on record the order dated 18/04/2022 and this order was also aware by the Appellant. However, the Appellant challenging the order passed on 13/12/2021, also filed an application for condonation of delay. This fact also aware by the Appellant. That, the Appellant also filed an application before the Civil Judge, Senior Division, Nagpur bearing Civil Suit No. 45/16. The matter was already decided by the Hon'ble High Court and the Appellant also filed an application before the Civil Court under Order 1 Rule 10 of C.P.C. when a matter in question already subjudice at Nagpur and civil court also passed an order. Therefore, the Appellant has got no legal status.

5. That, Appellant challenged the order dated 13/12/2021. The order dated 13/12/2022 is in between the State Government and the Central Government i.e. Ministry of Environment, Forests & Climate Change. That, the matter in question is in respect of diversion of 1.64 H.R. of Zudpi Jangal. The Appellant have not disclosed how the Appellant is aggrieved

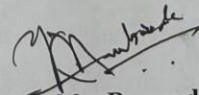
against the said order. The Appellant also made a false statement before the Court that he got the knowledge, it is a false statement made. That, the Appellant is not a person or the present Court is a Court in respect of deciding the forest matters. The matter in question i.e. W.P. No.5348/19 it was also brought into notice of the Court that the Appellant have filed petition under Articles 226 & 227 under the provisions of Public Interest Litigation because the Appellant is not a party and Appellant is not either adversely affected by way of any legal right.

6. That, the property in question and the construction in question made by the Respondent No.4 and there is no issue before the Court in respect of encroachment. That, during the course of order passed by the S.D.O. holding a power of Collector, have made a measurement and has come to the conclusion that the points in question i.e. Chanda and point where the property starts, the boundaries are not settled and not properly matching and accordingly the report was given by the S.D.O. The same order was challenged before the Commissioner. However, the Commissioner has already passed an order dated 03/04/2019 and it was also made clear that the Forest Conservation Act, 1980 and Survey No.88, it is made clear on page 52 "असे म्हटले आहे आणि यावरून अपिलार्थी यांनी मौजा तरोडी येथील सर्व्हे नं.८८, आराजी १.६४ हे.आर. हे प्रचलित ७/१२ अभिलेखात

महाराष्ट्र सार्वजनिक ग्रुप ग्रामपंचायत तरोडी बु. यांच्या नावे दर्ज असून झुडपी जंगल सार्वजनिक चराई जमिनीतील मुकरर असलेली जमीन आहे.” and their contention is that there is an encroachment but there was no encroachment. However, the civil suit is already subjudice, the court has already passed an order and the same has been repeated in the High Court of Judicature at Annexure-L and the Hon'ble High Court has very specifically directed under the provisions of Section 53(2)(a) of 1959 of the Village Panchayat Act to pass an order. However, the Collector have complied with the order and the matter in question as alleged it was already stayed by the Civil Court, therefore the matter in question is subjudice. However, it is to be noted that the Appellant has not disclosed how the Appellant have been aggrieved against the order passed by the Government of India, Annexure-K, pages 62-64 dated 13/12/2021, second para – It is a policy matter of the Central Government in respect of Act of 1980 establishment of transport city and industrial estate in Nagpur district of Maharashtra subject to the fulfillment of the following conditions. That, 3 conditions have been given. The Appellant has not disclosed how the Appellant is aggrieved in respect of policy matter of the Central Government as well as the pollution matter of the Fore Department i.e. having a power of Ministry of Environment, Forests & Climate Change dated 13/12/2021. Therefore, the present appeal filed by the Appellant needs to be dismissed with exemplary cost of Rs.1,00,000/-.

Nagpur

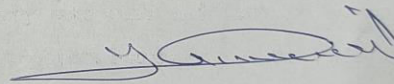
Dated : 24/07/2023



Counsel for Respondent No.4

SOLEMN AFFIRMATION

I, Shri Jivrajbbhai s/o Ratansi Patel, Aged about 70 years, Occupation Business, R/o Maa Umiya Audyogik Sahakari Vasahat, Maa Umiya Dham, Mouza Tarodi, Tahsil Kamptee, District Nagpur, do hereby take oath and state on solemn affirmation that the contents of para 1 to 6 above of the objection are drafted by my counsel as per my instructions. They are read over and explained to me in vernacular and I found the same to be true and correct to the best of my personal knowledge and belief. Hence verified and signed at Nagpur on this 24th day of July, 2023.



DEPONENT

NOTARIAL REG

ENTRY NO 8838DATE 25/7/23

I know and identify

the Deponent

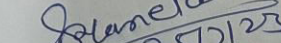
(K.B.AMBILWADE)

Advocate

SWORN/SOLEMNLy AFFIRMED

BY Jivrajbbhai
Ratansi Patel

WHO IS PERSONALLY/KNOWN

TO ME / IDENTIFIED BY AdvK. B. AmbilwadeBEFORE ME THIS THE 25thDAY OF July 23 AT NAGPUR

 SOPHIYA PRAKASH KANEKAR
 NOTARY
 TAH. NAGPUR,
 NAGPUR (M.S.) INDIA
