

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

**IN**  
ORIGINAL APPLICATION NO. 494 of 2023

**IN THE MATTER OF**

**MANOJ KUMAR PANDAY AND ORS**

...Applicant

VS

**STATE OF UTTAR PRADESH**

...Respondents

..

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*Niraj* DFO Kanpur  
Naga  
प्रभागीय निदेशक  
सामाजिक वानिकी प्रभाग  
कांपुर

FILED BY:

**REPLY ON BEHALF OF RESPONDENT NO.6**

1. In the original application, this Hon'ble Tribunal is seized with the issue related to environment concern. Applicant has raised his grievance mainly on two issues which pertains to the conversion of green park zone into commercial/residential activities and cutting of trees in violation of environmental rules. That vide order dated 20.11.2023 of the Hon'ble National Green Tribunal. It was directed to the undersigned to submit reply within 4 weeks.
2. In compliance with the order dated 20.11.2023 passed by the Hon'ble National Green Tribunal, New Delhi in the OA no. 494 of 2023 in Manoj Kumar Panday and Ors Vs Uttar Pradesh. It is submitted that previous order is being complied by way of this detailed reply pertaining to the issue of point no. 6 and 7 of order dated 28.11.2023. Both the directions are mentioned below :

***“6. Second issue raised in the OA is in respect of correctness of the order dated 16.06.2023 issued by Respondent no. 6 granting permission to cut as many as 45 trees. The order does not mention about any necessity for cutting of trees and any application of mind by the concerned authority in this regard.”***

- That the second issue raised in the statement of the applicant is negated. It is submitted that vide letter no 6343 dated 12.06.2023 of Incharge Division engineer, Horticulture Zone- 3, Zoological Park, Kanpur where request was made to Divisional Director, Social Forestry, Kanpur regarding the site inspection of the plot no. 70, Block Scheme Juhi and requests for the grant of permission to cut 45 trees standing in plot no. 70 Juhi-W-1 Kanpur. There are many trees of Pakhar, Neem, Banyan, peepal etc. on the site are to be removed and physical possession of the plot is to be given to the Samiti as per the orders of the above mentioned court. True Copy of the letter dated 12.06.2023 is hereby annexed as **ANNEXURE 1**
- That on the request as per the rules of Tree Protection of the Prabhari abhiyanta , Udhayan Zone- 3 a joint site inspection was conducted of the trees mentioned in the above letter. It is further submitted that during inspection it was found that different species were standing in plot no. 70 Juhi-W- Kanpur. The trees are owned by the Kanpur Development Authority. That on the basis of the recommendation report of Regional Forest Officer, Bidhnu Range and Sub Divisional Forest Officer, Kanpur, permission for felling of the 45 trees is granted with the condition that the felling of the said trees will be

done in the presence of Forest Department personnel. It is further requested that If trees are auctioned, the Regional Forest Officer, Bidhnu Range should be appointed as the representative of the Forest Department at the time of auction. True Copy of the letter dated 16.06.2023 is hereby annexed as **ANNEXURE 2**

- It is further submitted that according to the orders passed by the Hon'ble High Court and Hon'ble District Consumer District Consumer Disputes Redressal Forum, Kanpur , the physical possession of the plot in question was given to Jawahar Vidya Samiti. True Copy of the order dated passed by the Hon'ble High Court in Writ C no. 17800 of 2023 dated 24.05.2023 is hereby annexed as **ANNEXURE 3**
- It is submitted that another letter was issued to engineer in charge, Udyog Zone-3, K.V.P. Kanpur Nagar. It is the reply of the letter dated 12.06.2023 in which permission was requested to cut trees standing in plot no. 70 Juhi-W-1 . That in respect of the reply letter it was stated that after field inspection, permission was granted for evaluation and felling of trees of different species which were standing in plot no. 70 Juhi-W-1 Kanpur. The trees were owned by KDA. It is imperative to mention here that subsequently an OA 494 of 2023 was filed in the Hon'ble National Green Tribunal and as the matter is pending for adjudication in the court , permission of cutting trees 45 trees standing in Plot no. 70- Juhi W-1 Kanpur was deferred till further orders. True Copy of the letter dated 25.10.2023 is hereby annexed as **ANNEXURE 4**

**“7. We also prima facie find that the valuation of trees is not adequate and security of Rs 45,000/- for compensatory plantation of ten times of trees to be cut is on the lower side.”**

- Under the provisions of Uttar Pradesh Tree Protection Act 1976 (as amended) and Government Order No. 24/81-1-2020-07-93 dated 07.01.2020 of Uttar Pradesh Government Environment Forest and Climate Change Section-5, there is a provision for planting ten times the number of saplings. . Therefore, in place of one tree cut, ten plants will have to be planted. After the plantation, the security amount will be returned as per rules, in case of non-plantation, it will not be possible to consider returning the security money. Thus, for the plantation of ten times the number of saplings at the rate of Rs. 1000/- per tree, FDR (five years) of the amount of Rs. 45,000/- (Rs. forty five thousand only) was to be mortgaged in the name of "Divisional Director, Social Forestry Division, Kanpur" as security before cutting of the trees as has been mentioned in the letter of Divisional forest officer dated 16.06.2023. In the form and under the provisions contained in Government Order No. 111/14-5-2010-91/2010 dated 14.07.2010, felling permit fee of Rs. 100/- per tree i.e. an amount of Rs. 4500/- (Rs. four thousand five hundred only) and also

directed to place the demand draft of Rs. 45,000/- separately in the name of the undersigned. If the timber is to be transported after tree felling, then as per rules it will be necessary to obtain a transportation pass from the Forest Department as stated in the letter issued by social forestry department dated 16.06.2023. As per the Tree Protection Act amount was asked.

FILED BY  
RESPONDENT NO. 6

*Diwya*  
DFO Kambur

मा० उच्चतम न्यायालय/मा० उच्च न्यायालय  
के आदेशों से आच्छादित  
/सर्वोच्च प्राथमिकता

कार्यालय उद्यान अनुभाग  
कानपुर विकास प्राधिकरण, कानपुर

पत्रांक : 81/42/उद्यान/का०/वि०/१०/१०/२०२३-२५ दिनांक : 12-06-2023

सेवा में,

प्रभागीय निदेशक,  
सामाजिक वानिकी वन प्रभाग,  
कानपुर।

पत्रांक.....  
पत्रावली.....  
दिनांक.....  
मा०वा० प्रभाग. कानपुर

विषय:- भूखण्ड सं० 70, जूही, डब्लू-1 में खड़े पेड़ों को काटे जाने की अनुमति के सम्बन्ध में।

महोदया,

कृपया भूखण्ड सं०-70, डब्लू-1, ब्लाक-स्कीम जूही, कानपुर क्षेत्रफल 5138.67 वर्गमी० की भूमि कानपुर विकास प्राधिकरण के स्वीकृत तलपट मानचित्र के अनुसार विद्यालय हेतु आरक्षित थी, जिसका आवंटन जवाहर विद्या समिति के पक्ष में किया गया था। उपरोक्त के सम्बन्ध में मा० सर्वोच्च न्यायालय द्वारा एस०एल०पी० सिविल विशेष अनुज्ञा याचिका डायरी सं०-24590/2020, दिनांक 15.05.2020 को खारिज कर जवाहर विद्या समिति के पक्ष में निर्णित किया गया। मा० सर्वोच्च न्यायालय के आदेश के क्रम में प्राधिकरण द्वारा जवाहर विद्या समिति के पक्ष में लीज डीड दिनांक 23.01.2021 को निष्पादित कर दी गयी। भूखण्ड का भौतिक कब्जा नहीं दिये जाने से क्षुब्ध होकर जवाहर विद्या समिति द्वारा मा० जिला उपभोक्ता विवाद प्रतितोष फोरम कानपुर नगर के समक्ष इजरा वाद सं०-4/2020 योजित किया गया, जिसमें पारित आदेश दिनांक 27.04.2023 के विरुद्ध कानपुर विकास प्राधिकरण द्वारा मा० उच्च न्यायालय इलाहाबाद के समक्ष रिट याचिका सं०-17800/2023 कानपुर विकास प्राधिकरण बनाम मा० न्यायालय जिला उपभोक्ता विवाद प्रतितोष फोरम कानपुर नगर व अन्य योजित की गई, जिसमें पारित आदेश दिनांक 24.05.2023 की छायाप्रति अवलोकनार्थ संलग्न है।

मा० उच्चतम न्यायालय, मा० उच्च न्यायालय एवं मा० जिला उपभोक्ता विवाद प्रतितोष फोरम कानपुर द्वारा पारित निर्णयों के क्रम में प्रश्नगत भूखण्ड का भौतिक कब्जा जवाहर विद्या समिति को प्रदान किया जाना है। स्थल पर पाकड़, नीम, बरगद, पीपल इत्यादि के अनेकों वृक्ष हैं जिनको हटाकर भूखण्ड का भौतिक कब्जा पक्ष को प्रदान किया जाना है।

अतः सादर अनुरोध है कि नियमानुसार प्रश्नगत भूखण्ड का स्थलीय निरीक्षण कराकर पेड़ों को काटने की अनुमति तथा इस हेतु निर्धारित शुल्क की सूचना 07 दिवस में के भीतर सूचित करने का कष्ट करें, जिससे मा० न्यायालय की अवमानना की स्थिति से बचा जा सके।

संलग्नक:- उपरोक्तानुसार।

मर्यादा यदि  
प्रभागीय निदेशक  
उद्यान (जोन-3)

प्रतिलिपि :

1. उपाध्यक्ष महोदय को सादर अवलोकनार्थ।
2. अपर सचिव महोदय को सादर अवलोकनार्थ।
3. मुख्य अभियन्ता महोदय को सादर अवलोकनार्थ।

कार्यालय प्रभागीय निदेशक सामाजिक वानिकी प्रभाग कानपुर  
पत्रांक 6343 / 21.11 दिनांक कानपुर 16-06-2023

सेवा में,

प्रभारी अभियन्ता,  
उद्यान जोन-3, कानपुर नगर

विषय:- भूखण्ड सं0-70 जूही-डब्ल्यू-1 में खड़े पेड़ों को काटे जाने की अनुमति के सम्बन्ध में।  
सन्दर्भ:- आपका पत्र संख्या-डी/42/उद्यान/का0वि0प्रा0/2023-24 दिनांक 12.06.2023।

उपरोक्त विषयक संदर्भित पत्र के कम वृक्षों की संयुक्त स्थलीय जाँच हेतु श्री शशिकान्त उद्यान अधिकारी, के0डी0ए0 कानपुर एवं क्षेत्रीय वन अधिकारी, बिधनू रेंज द्वारा कराई गई। निरीक्षण में पाया गया कि विभिन्न प्रजाति के भूखण्ड सं0-70 जूही-डब्ल्यू-1 कानपुर में खड़े। वृक्षों पर स्वामित्व कानपुर विकास प्राधिकरण का है। पातित किये जाने वाले वृक्षों का विवरण निम्नवत है-

क्र0सं0	प्रजाति का नाम	दशा	गोलाई (मी0 में)	मूल्यांकन (रु0 में)
1	बरगद	हरा खड़ा	416	4106.66
2	पाकड़	हरा खड़ा	241	4106.66
3	केसिया सेमिया	हरा खड़ा	112	806.66
4	सहजन	हरा खड़ा	152	1246.66
5	सहजन	हरा खड़ा	60	146.66
6	बेल	हरा खड़ा	46	146.66
7	आंवला	हरा खड़ा	36	146.66
8	कचनार	हरा खड़ा	46	146.66
9	अमलताश	हरा खड़ा	43	146.66
10	कचनार	हरा खड़ा	46	146.66
11	नीम	हरा खड़ा	48	282.33
12	जामुन	हरा खड़ा	46	282.33
13	नीम	हरा खड़ा	66	443.66
14	बेल	हरा खड़ा	94	403.33
15	अर्जुन	हरा खड़ा	64	443.66
16	अर्जुन	हरा खड़ा	43	282.33
17	बकौन	हरा खड़ा	53	146.66
18	सहजन	हरा खड़ा	66	443.66
19	बाटलब्रश	हरा खड़ा	53	146.66
20	गोल्ड मोहर	हरा खड़ा	74	443.66
21	बाटलब्रश	हरा खड़ा	53	146.66
22	सहजन	हरा खड़ा	74	443.66
23	जामुन	हरा खड़ा	71	443.66
24	कदम्ब	हरा खड़ा	130	1246.66
25	अशोक	हरा खड़ा	40	146.66
26	आम	हरा खड़ा	45	282.33
27	अशोक	हरा खड़ा	38	146.66
28	जामुन	हरा खड़ा	42	282.33
29	जामुन	हरा खड़ा	38	282.33
30	कदम्ब	हरा खड़ा	107	806.66
31	कदम्ब	हरा खड़ा	125	806.66
32	अशोक	हरा खड़ा	35	146.66

33	अशोक	हरा खड़ा	39	146.66
34	अर्जुन	हरा खड़ा	87	443.66
35	अशोक	हरा खड़ा	35	146.66
36	अशोक	हरा खड़ा	38	146.66
37	शहतूत	हरा खड़ा	58	146.66
38	जामुन	हरा खड़ा	33	282.33
39	आम	हरा खड़ा	35	282.33
40	नीम	हरा खड़ा	168	2742.66
41	पीपल	हरा खड़ा	252	4106.66
42	नीम	हरा खड़ा	125	887.33
43	बरगद	हरा खड़ा	418	4106.66
44	करंज	हरा खड़ा	50	146.66
45	करंज	हरा खड़ा	38	146.66
<b>योग:-</b>				<b>33377.40</b> (रूपया तैंतीस हजार तीन सौ सत्तर मात्र)

क्षेत्रीय वन अधिकारी, बिधनू रेंज व उप प्रभागीय वनाधिकारी, कानपुर की संस्तुति रिपोर्ट के आधार पर उपरोक्त वृक्षों को पातन करने की अनुमति इस शर्त के साथ प्रदान की जाती है कि उक्त वृक्षों का पातन वन विभाग के कार्मिकों की उपस्थिति में कराया जायेगा। यदि वृक्षों की नीलामी की जाती है, तो नीलामी के समय वन विभाग के प्रतिनिधि के तौर पर क्षेत्रीय वन अधिकारी, बिधनू रेंज को रखा जाये।

उ०प्र० वृक्ष संरक्षण अधिनियम 1976 (यथासंशोधित) एवं उ०प्र० शासन पर्यावरण वन एवं जलवायु परिवर्तन अनुभाग-5 की शासनदेश संख्या-24/81-1-2020-07-93 दिनांक 07.01.2020 के प्राविधानों के अन्तर्गत दस गुने पौधों के रोपण का प्राविधान है। अतः काटे गये एक वृक्ष के स्थान पर दस पौधों का रोपण करना होगा। रोपण कराने के पश्चात नियमानुसार जमानत धनराशि वापस कर दी जायेगी, रोपण न कराने की दशा में जमानत धनराशि वापस किये जाने पर विचार करना सम्भव नहीं होगा। इस प्रकार दस गुना पौधों के रोपण हेतु रू० 1000/- प्रति वृक्ष की दर से रू० 45,000/- (रू० पैंतालीस हजार मात्र) धनराशि की एफ०डी०आर० (पाँच वर्षीय) "प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, कानपुर" के पदनाम बन्धक कराकर जमानत के रूप में एवं शासनादेश संख्या-111/14-5-2010-91/2010 दिनांक 14.07.2010 में निहित प्राविधानों के तहत रू० 100/- प्रति वृक्ष पातन अनुज्ञा शुल्क अर्थात् रू० 4500/- (रू० चार हजार पाँच सौ मात्र) की धनराशि का डिमांड ड्राफ्ट भी अलग से अधोहस्ताक्षरी के पदनाम पर उपलब्ध कराने का कष्ट करें। वृक्ष पातन के पश्चात् प्रकाष्ठ का अभिवहन किया जाये, तो नियमानुसार वन विभाग से अभिवहन पास लेना आवश्यक होगा।

(दिव्या)  
प्रभागीय निदेशक  
सामाजिक वानिकी प्रभाग  
कानपुर

पत्रांक 6343 /समदिनांकित

प्रतिलिपि-उप प्रभागीय वनाधिकारी, कानपुर को उपरोक्त के क्रम में सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

प्रतिलिपि-क्षेत्रीय वन अधिकारी, बिधनू रेंज को उनके संदर्भित पत्र 663/32-1 दिनांक 16.06.2023 के क्रम में सूचनार्थ एवं इस निर्देश के साथ प्रेषित कि जब तक उपरोक्त धनराशि जमा नहीं हो जाती, तब तक वृक्ष किसी भी दशा में कटने ना पाये। वृक्ष पातन के पश्चात् उक्त प्रकाष्ठ का अवैध अभिवहन किसी भी दशा में न होने पाये।

(दिव्या)  
प्रभागीय निदेशक  
सामाजिक वानिकी प्रभाग  
कानपुर

Neutral Citation No. - 2023:AHC:116206-DB

Court No. - 3

**Case :-** WRIT - C No. - 17800 of 2023

**Petitioner :-** Kanpur Development Authority

**Respondent :-** District Consumer Dispute And Redressal Kanpur Nagar And Another

**Counsel for Petitioner :-** Anand Prakash Paul

**Counsel for Respondent :-** Sanjeev Kumar Tyagi

**Hon'ble Surya Prakash Kesarwani,J.**

**Hon'ble Anish Kumar Gupta,J.**

1. Heard Sri Shashi Nandan, learned Senior Advocate assisted by Sri A.P. Paul, learned counsel for the petitioner and Sanjeev Kumar Tyagi, learned counsel for the respondent No.2.

2. This writ petition has been filed praying for the following relief:

*“I. Issue a writ, order or direction in the nature of certiorari calling for record of the case, quash the impugned orders dated 3.2.2023 (Annexure-24 and 27.04.2023 (Annexure -26) passed Respondent No. 1.*

*II. Issue a writ, order or direction in the nature of mandamus commanding respondents not to give effect to and not to implement the impugned order dated 03.02.2023 (Annexure-19) and 27.04.2023 (Annexure-22) passed by Respondent No. 1.*

*III. Issue any other suitable writ, order or direction as this Hon'be Court may deem fit and proper in the peculiar facts and circumstances of the case, so as to meet the ends of justice.”*

3. The impugned order dated 03.02.2023 filed as Annexure-24 to the writ petition is an order passed on application of the respondent No.2 under Section 72 of the Consumer Protection Act, 2019 (hereinafter referred to as ‘the Act, 2019’) requiring the petitioner to submit his explanation within ten days and the next date was fixed for 16.02.2022. The impugned order dated 27.04.2023 has been filed as Annexure-26 to the writ petition, whereby due to non-compliance of the order, the respondent No.1 issued a warrant to require the presence of the Vice Chairman of the petitioner.

4. This case is a glaring example of high-handedness of the petitioner and

continuous harassment being caused by the petitioner to the respondent No.2. The petitioner has also not hesitated to make false statement and to file false affidavit before this court which shall be evident from the facts now being narrated below.

5. Undisputedly, the petitioner allotted to the respondent No.2 a plot No.70 W/1 Block of Scheme Juhi of Kanpur, measuring 5138.67 square meters by order dated 19.01.1984. The lease was for a period of 99 years. The respondent No.2 complied with the terms of the allotment order but since lease deed was not being executed and possession was not handed over, therefore, the respondent No.2 filed a Complaint Case No.1222 of 2002 (Jawahar Vidya Samiti vs. Kanpur Development Authority and another), which was allowed by order dated 19.12.2003 passed by the District Consumer Forum, Kanpur. The operative portion of the order is reproduced below:

*“परिवादी संस्था का उपभोक्ता वाद स्वीकार किया जाता है। विपक्षी सं०-1 को आदेश दिया जाता है कि वह परिवादी संस्था से एकमुश्त विवादित भूखण्ड का अवशेष ¾ मूल्य रूपया 3,31,444.22 पैसा दिनांक 11.5.1984 से 22.3.97 तक 10 प्रतिशत वार्षिक ब्याज सहित एक माह के अंदर जमा कराकर, उसके पक्ष में भूखण्ड का अग्रिम दो माह के अंदर निबंधन करके अध्यासन प्रदान करे। यदि परिवादी एक माह के अंदर एकमुश्त अवशेष धनराशि विपक्षी के खाते में जमा नहीं करता है तो वह निर्णय के दिनांक से 21 प्रतिशत वार्षिक ब्याज भी उक्त धनराशि पर विपक्षी को भुगतान करेगा।*

*उभय पक्ष अपना-अपना वाद व्यय स्वयं वहन करें।”*

6. Against the aforesaid order, the petitioner filed an Appeal No.165 of 2004 (Kanpur Development Authority through Vice Chairman vs. Jawahar Vidya Samiti) before the State Consumer Disputes Redressal Commission, U.P. Lucknow, which was dismissed by order dated 03.07.2015 and the judgment and order of the District Consumer Forum dated 19.12.2003 was affirmed. Against the order of the State Consumer Disputes Redressal Commission, the petitioner filed a Revision Petition No.3201 of 2015 before the National Consumer Disputes Redressal Commission, New Delhi which was also dismissed by judgment and order dated 28.11.2019. Against the aforesaid judgment and order of the National Consumer Disputes Redressal

Commission, New Delhi, the petitioner filed a Special Leave Petition (Civil) Diary No(s).24590/2020, which was dismissed by Hon'ble Supreme Court by order dated 15.12.2020. Thereafter, the petitioner executed a registered lease deed dated 23.01.2021 in favour of the respondent No.2 for the aforesaid plot No.70. However, the petitioner did not give possession of the aforesaid plot to the respondent No.2 and instead to harass the petitioner, he obtained a report from his Executive Engineer that the plot in question is being used by local residents as park. An Execution Case No.4 of 2020 was filed by the respondent No.2, which was pending before the District Consumer Disputes Redressal Commission, Kanpur Nagar for execution of the judgment and order dated 19.12.2003 which stood affirmed upto Supreme Court. Proceeding with his further approach of harassment to the respondent No.2, the petitioner has passed an order on 04.07.2022 proposing to cancel the allotment and to return the deposited amount of Rs.9,13,485.40 with simple interest @ 9% per annum. He proposed to file a case before the competent authority for cancellation of the lease deed dated 23.01.2021. Aggrieved, the respondent No.2 filed Writ-C No.23521 of 2022, which is pending. Thereafter, the petitioner herein filed Writ-C No.30250 of 2022, in which he made two statements before this court, as under:

**(i) Land has been declared as Park, therefore, the order of the Consumer Forum has become inexecutable.**

**(ii) Petitioner may be permitted to give another piece of land.**

7. The order dated 22.12.2022 passed in Writ-C No.30250 of 2022 (Kanpur Development Authority vs. District Consumer Dispute And Redressal And Another) is reproduced below:

*“Heard Sri Anoop Trivedi, learned Senior Advocate assisted by Sri Shivam Yadav, learned counsel for the petitioner.*

*The case of the petitioner is that the order dated 19.12.2003 passed by the District Consumer Dispute Redressal Forum, Kanpur Nagar, Kanpur/respondent no.1 is though unimplementable, is being sought to be executed by the respondent no.2. Learned Senior Counsel Sri Anoop Trivedi assisted by Sri Shivam Yadav has stated that at the time when the order was passed by the*

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*respondent no.1 the land could be sold but now when that land has been declared a park, the order of the Consumer Forum has become inexecutable.*

*Learned Senior Counsel prays that this Court may order that the petitioner may be permitted to give another piece of land instead of the land which the respondent no.1 has ordered the petitioner to sell to the respondent no.2.*

*In view of the above submission, we consider it appropriate that the petitioner may file an appropriate application before the District Consumer Dispute Redressal Forum. If the application is filed within one week from today, the respondent no.1-District Consumer Dispute Redressal Forum, Kanpur Nagar would pass appropriate orders within a period of two weeks thereafter in accordance with law.*

*With above observation, the writ petition is disposed of.”*

8. Thereafter, the petitioner herein filed an application dated 06.01.2023 before the respondent No.1 praying to keep on hold the execution proceedings in view of the aforequoted order of the High Court dated 22.12.2022. Against the aforesaid application, the respondent No.2 filed objection dated 11.01.2023 praying for rejection of the application and to initiate proceedings under Section 72 of the Act, 2019. On 02.02.2023 the petitioner herein filed yet another application praying for a month's time to provide proper plot to the decree-holder, i.e. the respondent No.2. It appears that an internal correspondence took place between the Tehsildar, Kanpur Development Authority, Kanpur and Special Officer (Law) but no plot in alternative could be offered by the petitioner to the respondent No.2.

9. Under the briefly aforementioned facts of the case, proceeding under Section 72 of the Act, 2019 was sought to be initiated against the petitioner and in that connection, the respondent No.1 directed to the petitioner by order dated 03.02.2023 to submit explanation within ten days. It appears that the petitioner has submitted some application dated 16.02.2023 to which an objection dated 27.02.2023 was filed by the respondent No.2 praying to reject the application of the petitioner and pass an order under Section 72 of the Act, 2019. In these circumstances, the respondent No.1 has passed an order dated 27.04.2023, as under:

“इजरा-04/2020”

27.04.2023

पत्रावली पेश हुई। विपक्षी की ओर से स्थगन प्रार्थना पत्र दिया गया है, परन्तु विपक्षी के विरुद्ध धारा-72 उपभोक्ता संरक्षण अधिनियम की कार्यवाही चल रही है। ऐसी स्थिति में विपक्षी की व्यक्तिगत उपस्थिति आवश्यक है। अतः स्थगन प्रार्थना पत्र का कोई औचित्य नहीं है और खारिज किया जाता है।

दिनांक 22.03.2023 को इस आयोग द्वारा आदेश पारित किया गया कि विपक्षी के विरुद्ध धारा-72 उपभोक्ता संरक्षण अधिनियम की कार्यवाही अग्रसर की जाती है और विपक्षी को तलब किया गया, कि वह उपस्थित इस बिन्दु पर अपना पक्ष रखे कि क्यों न उसे आयोग के आदेश की अवहेलना के लिये दोषी मानते हुये दण्डित किया जाये। उसके बाद भी विपक्षी उपस्थित नहीं आया। चूंकि धारा-72 की कार्यवाही एक दण्डिक कार्यवाही है, जिसमें सजा का प्राविधान है। अतः उक्त कार्यवाही आवश्यक है कि विपक्षी की उपस्थिति में की जाये, परन्तु विपक्षी उपस्थित नहीं हो रहा है। अतः उसे वारण्ट के द्वारा तलब किया जाना आवश्यक है। तदनुसार विपक्षी कानपुर विकास प्राधिकरण के उपाध्यक्ष के विरुद्ध आयोग के समक्ष उपस्थिति हेतु गैर जमानती वारण्ट तामीला हेतु थानाध्यक्ष स्वरूप नगर को भेजा जाये।

पत्रावली वास्ते सुनवाई/ आदेश व विपक्षी की हाजिरी हेतु दिनांक 27.05.2023 को पेश हो।

(नीलम यादव)  
सदस्या

(बिकानू राम)  
अध्यक्ष

10. The aforequoted order dated 27.04.2023 has also been challenged in the present writ petition.

11. Section 72 of the Consumer Protection Act, 2019 reads, as under:

**“Section 72. Penalty for non-compliance of order.**

(1) *Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both.*

(2) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the District Commission, the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of first class for the trial of offences under sub-section (1), and on conferment of such powers, the District Commission or the State Commission or the National Commission, as the case may be, shall be deemed to be a Judicial Magistrate of first class for the purposes of the Code of Criminal Procedure, 1973.*

(3) *Save as otherwise provided, the offences under sub-section (1) shall be tried summarily by the District Commission or the State Commission or the National Commission, as the case may be.”*

12. Sub-Section (1) of Section 72 of the Act, 2019 provides that **whoever fails to comply with any order** made by the District Commission or the State

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Commission or the National Commission, as the case may be, **shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both.** Sub-Section (2) of Section 72 confers upon the District Commission, the State Commission or the National Commission power of a Judicial Magistrate of first class for the trial of offences under sub-section (1), and on conferment of such powers, the District Commission or the State Commission or the National Commission, as the case may be, shall be deemed to be a Judicial Magistrate of first class for the purposes of the Code of Criminal Procedure, 1973.

13. It is undisputed that the petitioner has failed to comply with the order of the District Commission as briefly noted above, particularly the order dated 03.02.2023 and has also not complied with the order of the this Court dated 22.12.2022 in Writ-C No.30250 of 2022.

14. Since despite time granted to the petitioner, the petitioner failed to comply with the order of the District Consumer Disputes Redressal Commission, Kanpur Nagar as aforementioned, therefore, the respondent No.1 has lawfully exercised powers vested in it by virtue of sub-Section (2) of Section 72 of the Act, 2019 which resulted in passing of the impugned orders dated 03.02.2023 and dated 27.04.2023 passed by the respondent No.1, are well in accordance with law.

15. Apart from the above, we repeatedly asked learned counsel for the petitioner to produce before us any notification under the U.P. Parks, Playgrounds and Open Places (Preservation and Regulation) Act, 1975 declaring plot No.70 as a park. On the other hand, learned counsel for the respondent No.2 has produced before us an office note of the Officer Incharge (Assets) Nagar Nigam, Kanpur dated 02.06.2022 in which it has been mentioned that the KDA Plot No.70 W/1 Block of Scheme Juhi of Kanpur was illegally and unauthorisedly allotted for one year by the Udyan Adhikari for

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maintenance to one Sri Bhupesh Awasthi, President, Bhagwan Parashuram Mahasabha which period having expired, the allotment also has to be cancelled and the aforesaid plot is not the property of the Nagar Nigam nor it is owned by Nagar Nigam.

16. We have noticed these facts in just preceding paragraph merely for the purposes to make assessments of the high-handedness and harassment attitude of the petitioner against the respondent No.2, who having contested the matter for about 21 years, is not allowed to use the plot allotted to him and also in terms of the registered lease deed. Therefore, for the continuous harassment being caused by the petitioner to the respondent No.2, and dragging in litigation for about 21 years deserves to be awarded exemplary cost which we assess at Rs.5,00,000/-.

**17. For all the reasons aforestated, the writ petition is dismissed with cost of Rs.5,00,000/- which shall be paid by the petitioner to the respondent No.2 within a week by way of account payee bank-draft.**

**Order Date :- 24.05.2023**

NLY

कार्यालय प्रभागीय निदेशक सामाजिक वानिकी प्रभाग कानपुर

पत्रांक 1491 / 221 दिनांक कानपुर 25-10-2023

सेवा में,

प्रभारी अभियन्ता,  
उद्यान जोन-3, का0 वि0 प्र0  
कानपुर नगर

विषय:- भूखण्ड सं0-70 जूही-डब्ल्यू-1 में खड़े पेड़ों को काटे जाने की अनुमति के सम्बन्ध में।  
सन्दर्भ:- आपका पत्र संख्या-डी/42/उद्यान/का0वि0प्र0/2023-24 दिनांक 12.06.2023।

उपरोक्त विषयक संदर्भित पत्र के क्रम अवगत कराना है कि इस कार्यालय की पत्र संख्या-6343/टी.सी. दिनांक 16.06.2023 द्वारा संयुक्त स्थलीय जॉचोंपरान्त विभिन्न प्रजाति के वृक्षों जो भूखण्ड सं0-70 जूही-डब्ल्यू-1 कानपुर में खड़े थे, का मूल्यांकन व पातन अनुमति आपको जारी की गई थी।

तत्कम में ओ0ए0 संख्या-494/2023 मनोज कुमार पाण्डेय एवं अन्य बनाम उत्तर प्रदेश राज्य एवं अन्य में मा0 एन0जी0टी0, नई दिल्ली के समक्ष दायर किया गया है, जिसमें मा0 न्यायाधिकरण ने नोटिस जारी करके रिपोर्ट प्रस्तुत करने के निर्देश दिये गये हैं।

अतः मा0 एन0जी0टी0, नई दिल्ली के आदेश के क्रम में इस कार्यालय की पत्र संख्या-6343/टी.सी. दिनांक 16.06.2023 द्वारा भूखण्ड सं0-70 जूही-डब्ल्यू-1 कानपुर में खड़े 45 वृक्षों से सम्बन्धित पातन अनुज्ञा को अग्रिम आदेशों तक स्थगित किया जाता है।

(दिव्या)

प्रभागीय निदेशक  
सामाजिक वानिकी प्रभाग  
कानपुर

पत्रांक 1491 / समदिनांकित

प्रतिलिपि- उप प्रभागीय वनाधिकारी, कानपुर को उपरोक्त के क्रम सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

प्रतिलिपि- क्षेत्रीय वन अधिकारी, बिधनू रेंज को उनके संदर्भित पत्र 206/35-3 दिनांक 20.10.2023 के क्रम में सूचनार्थ एवं इस आवश्यक कार्यवाही हेतु प्रेषित।

(दिव्या)

प्रभागीय निदेशक  
सामाजिक वानिकी प्रभाग  
कानपुर

O/c