

From:

Dy. Conservator of Forests,

Faridabad

To:

The Registrar General,

National Green Tribunal,

Principal Bench, New Delhi.

No: /

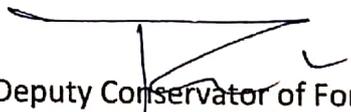
Date: 9-4-2020

**Subject:- Original Application No 975 of 2019 Kamaljeet Singh and Ors Vs Union of India and Ors.**

The Hon'ble National Green Tribunal on 23 September 2019 has passed an order .

***" Before proceeding further, we find it necessary to require a factual and action taken report in the matter. Let such a report be furnished by PCCF (HoFF) Haryana and District Magistrate Faridabad".***

Pursuant to the above directions, Factual report is attached for Kind information of Hon'ble National Green Tribunal please.

  
Deputy Conservator of Forests

Faridabad

Endst No.

Dated

A copy is forwarded to the following for information and further action.

1. Shri Anil Grover, AAG Haryana, New Delhi .
2. Chief Conservator of Forests(P-II) Haryana, Gurugram.
3. Conservator of Forests ,South Circle ,Gurugram .

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Deputy Conservator of Forests

Faridabad

Factual Report in O.A. No. 975 of 2019

In compliance of order dated 23.09.2019 of Hon'ble National Green Tribunal, New Delhi passed in OA No. 975 of 2019 titled Kanwaljeet Singh Vs. Union of India & Others

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An OA No. 975/2019 titled Kanwal Jeet Singh Vs. Union of India & Others was filed in National Green Tribunal, New Delhi alleging construction of buildings in Khasra No 920 and 659 of village Anangpur, Faridabad, which is closed under Section 4 of Punjab Land Preservation Act, 1900. The applicant has prayed as under:-

- a. Direct the respondents to demolish the constructions made in Khasra Nos. 920 and 569 of village Anangpur and take immediate action against the violators; and
- b. Direct the respondents to restore the area to its natural state; and
- c. Pass any other order or such further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

While hearing the application on 23.09.2019, Hon'ble NGT, New Delhi passed the following order:

*"Grievance in this application is against illegal construction in forest land adjacent to Kant Enclave, Faridabad.*

*Before proceeding further, we find it necessary to require a factual and action taken report in the matter. Let such a report be furnished by the PCCF (HoFF), Haryana and the District Magistrate, Faridabad within one month by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in). The nodal agency for compliance and coordination will be the PCCF (HoFF), Haryana.*

*A copy of this order be sent to the PCCF (HoFF), Haryana and the District Magistrate, Faridabad by email.*

*The applicant may furnish a separate set of papers to the PCCF (HoFF), Haryana and the District Magistrate, Faridabad and file affidavit of service within one week."*

**The facts of the case are as under:-**

That the Forest Department, Government of Haryana, vide Notification No. S.O. 104/P.A.2/1900/S.3/92 dated 18.08.1992 notified 1467 acres of land in Village Anangpur, Tehsil Ballabhgarh, District Faridabad under section 4 of Punjab Land Preservation Act, 1900, for a period of thirty years. That as per the aforesaid notifications, the



Government of Haryana, in exercise of the powers conferred by section 4 of the PLPA, 1900 prohibited the acts as envisaged under section 4, for a period of thirty years from the date of publication of the said notifications in the official Gazette in the area specified in the schedule annexed to the said notifications. That as per section 4 of the PLPA, 1900, in respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, temporarily regulate, restrict or prohibit;

- (a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under Section 3;
- (b) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under Section 3
- (c) the cutting of trees or timber or the collection or removal or subjection to any manufacturing process, otherwise than as described in Clause (b) of this sub-section of any forest-produce other than grass, save for bona fide domestic or agricultural purpose of right-holder in such area;
- (d) the setting on fire of trees, timber or forest produce;
- (e) the admission, herding pasturing or retention of sheep, goats or camels;
- (f) the examination of forest - produce passing out of any such area; and
- (g) the granting of permits to the inhabitants of towns and villages situated within the limits or in the vicinity of any such area to take any tree, timber or forest produce for their own use therefrom, or to pasture sheep, goats or camels or to cultivate or erect buildings therein and the production and return of such permits by such persons.

That the Hon'ble Supreme Court, in the case titled M. C. Mehta Vs Union of India and Ors, while deciding on IA No. 1901 in I.A. No 1888 in WP (C) No.4667 of 1985 with IAs No. 1955 in I.A. No 1988 in WP (C) No.4677 of 1985 vide order dated 14.05.2008 clarified the following "In view of the notification under section 4, when clearing or breaking up of land is not permitted that itself is a bar from fresh construction because construction can take place only if clearing and breaking up of an area /land taking place." Further, in this case Hon'ble Supreme Court also held the following, "The factum of developing a plot and then construct therein would amount to clearing or breaking up of an area or land."

It is stated that the Khasra no 920 and 659 of village Anangpur, Faridabad, in which the applicant has alleged construction is closed under Section 4 of Punjab Land Preservation Act, 1900

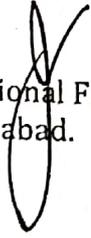
It is stated that Forest department, Faridabad issued a forest offence report No. 47471/475 dated 24.03.2008 (Annexure - 1) against levelling of land and removal of 220 trees of Mesquite and 145 plants of Ronj and construction of three houses by one Mr. Rajbir S/o Sh. Chandru R/o Village Anangpur district Faridabad. Based on the forest offence report, case No. 569/2008 was registered in the court of Presiding Officer -cum- JMC,

Special Environment Court, Faridabad. In the decision dated 11.5.2015 the Learned Court acquitted the accused of the charges levelled against him (Annexure-II). However as per letter no. 1108 dated 11-02-2020 of the office of Divisional Forest officer there exist three Houses in Khasra no. 920 & 659 in violation of PLPA 1900.

It is stated that another forest offence report No. 09/835 dated 26.2.2016 (Annexure-III) was issued for constructing a wall measuring 20 m. in length X 10 m. breadth and putting up a iron gate measuring 12 ft. in length and 8 ft. in height in khasra No. 659 of village Anangpur, Faridabad, against Rajkumar, Jaiveer S/o. Late Sh. Chandru R/o village Anangpur district Faridabad.

A forest offence report No. 09/836 dated 15.3.2016 (Annexure-IV) was issued for erecting a iron gate measuring 24 ft. in length and 10 ft. in height in area closed under Section 4 of PLPA, 1900 at Anangpur, against Rajkumar, Jaiveer S/o. Late Sh. Chandru R/o village Anangpur district Faridabad.

Subsequent to issuance of forest offence report No. 09/835 dated 26.2.2016 and forest offence report No. 09/836 dated 15.3.2016 immediate action was taken by the forest department and the structures were demolished. The reply to this effect has been made by Divisional Forest Officer in Execution Application No. 03/2019 in OA No. 194 of 2016 in the matter of Divesh Bhutani Vs Union of India & Others. Subsequent to which the Execution of Application No. 03/2019 in OA No. 194 of 2019 was disposed off on 08.03.2019 by the Hon'ble National Green Tribunal.

  
Divisional Forest Officer,  
Faridabad.

  
District Magistrate,  
Faridabad.

PC No. 48/2008

रिपोर्ट क्षति नं. <sup>Copy</sup>  
क्रम संख्या 15 <sup>Duplicate</sup> 47471  
Book No. 475 Sr. No.

वन विभाग हरियाणा मण्डल फाद

रिपोर्ट नं. 47471

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71/2007

परिक्षेत्र अधिकारी बेल्बल परिक्षेत्र बेल्बल

श्रीमान जी,

आज तिथि 24 मास 3 साल 08

को जंगल का दौरा किया गया और निम्नलिखित नुकसान पाया।  
दौरा के दौरान सुगन्ध गुलजिम द्वारा अज्ञानपूर्वक पकड़ा गया  
254-5 के खसरा नं. 1654 व 120 के नाजायज तौर पर  
करियेब एक एकड़ जमीन की लोपाम्बि  
करके 200 मरकट 20 C.M मोटे व 145 रोपे  
के 23 C.M मोटे काटकर तीन अकार बन्ना  
लिपट है गुलजिम के पुत्रों के बाल लीसा

परन्तु दस्तावेज करने से भना, केना  
रिपोर्ट आपकी सेवा के लिए है  
गुलजिम का नाम राज जी

पिता का नाम नन्दप्र जाति बुजूर

गांव जुलजपुर मौका/पर/नहीं/पकड़ा गया।

क्र. 11

हल्का वन रक्षक

*Attested*

D. F. O. Faridabad.

*Attested*

*[Signature]*

Forest Officer  
Forest Division  
Faridabad

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IN THE COURT OF RAMAWATAR PAREEK, HCS (JUDICIAL),  
PRESIDING OFFICER-cum- JMIC, SPECIAL ENVIRONMENT  
COURT, FARIDABAD.

Case No. 659 of 2008  
Date of Inst.: 13.06.2008  
Date of Dec.: 30.04.2015

Divisional Forest Officer, Faridabad.

Versus

Rajbir son of Chandru resident of village Anangpur, Distt. Faridabad.

Present: Sh.Babu Ram, Forester, Divisional Prosecutor, Faridabad for  
complainant.  
Accused on bail with Sh.Deepak Gera, Advocate.

**JUDGMENT:**

The present challan has been sent up by Divisional Forest Officer, Faridabad, against the above named accused for his trial for commission of offence, punishable u/s 19 of the Punjab Land Preservation Act, 1900.

2. The brief facts of the present case are that on 24.3.2008 during patrolling duty in the area of Anangpur Pahar Area, it was found that accused had made encroachment over the land measuring 1 acre and felled down 220 Muskat & 145 Rund plants which belonged to forest department. Therefore, the accused caused a loss of Rs.4,18,250/-. Hence, the present complaint for taking action against the accused for commission of offence, punishable u/s 19 of the Punjab Land Preservation Act, 1900.

3. Accused was summoned vide order dated 13.6.2008, passed by Sh. Rajender Singh Dhandia, the then Learned Presiding Officer and on his appearance in the court, accused was admitted to bail and copy of challan was supplied to him free of costs.

4. On finding a prima-facie case punishable u/s 19 of the Punjab

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(Ramawatar Pareek)  
Presiding Officer-cum-JMIC,  
Special Environment Court,  
Faridabad. 11.5.2015.

Authorised by Sec. 76 of the  
Indian Evidence Act 25-8-15

Authorised by Sec. 76 of the  
Indian Evidence Act

Divisional Forest Officer  
Faridabad Forest Division  
Faridabad

Land Preservation Act, 1900 notice of accusation was served upon accused on 7.6.2013, to which accused pleaded not guilty and claimed for trial.

5. Prosecution has examined one witness to prove its case against the accused and thereafter, the prosecution evidence was closed by ld. divisional prosecutor on 28.10.2014.

6. Statement of accused u/s 313 of Cr.P.C. was recorded on 11.12.2014, accused denied the allegations leveled against him and pleaded innocence.

7. Before proceeding further, it would not be out of place to give brief resume of the witnesses examined by the prosecution.

PW1 Halram, Forester appeared in the witness box and deposed that on 24.3.2008 during patrolling at Anangpur, he found that accused had constructed three houses and felled down 220 Muskat and 145 Rund plants. In his cross examination he deposed that he could not snatch the photographs of said houses. He could not enquire regarding ownership of said houses from Patwari. He could not join any independent witness.

9. I have heard learned Divisional Prosecutor, Faridabad for complainant and Sh. Deepak Gera, Advocate, learned counsel for the accused and have gone through the case file, evidence as well as documents attached with the file.

10. Learned Divisional Prosecutor has argued that prosecution has been able to prove the case as the illegal encroachment by the accused and felling down of plants have been clearly proved upon the file by the oral evidence of PW1.

11. On the other hand learned counsel for the accused has argued

Attested

Divisional Forest Officer  
Faridabad Forest Division  
Faridabad

(Rajmawatar Pareek)  
Presiding Officer-cum-JMIC,  
Special Environment Court,  
Faridabad, 11.5.2015.

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Indian Evidence Act

28-12

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that prosecution has miserably failed to prove the guilt against the accused and the accused is liable to be acquitted on the ground that accused has not been proved to be the owner of the land and no any encroachment and felling of plants so caused by the accused has been proved on the file.

12. After hearing rival contentions and after perusing the evidence on the file I am of the considered opinion that accused is liable to be acquitted on the following grounds:

13. In the present case the prosecution was required to prove that accused had made encroachment over land measuring 1 acre belonging to Forest Department. The prosecution was further required to prove that accused had felled down the plants and the area of Anangpur was notified area in which cutting or felling down the trees was an offence and prosecution was further required to prove that it was the accused who caused the illegal act.

14. There is no any notification upon file which could establish that the present area falls within notified area or is protected forest. Even if it is presumed that the present area has been declared protected forest or has been closed under Section 19 of Punjab Land Preservation Act. Yet, it was required to prove that there was an encroachment and felling of plants by the present accused upon the forest land but except oral version nothing has been placed upon file. In such a situation the prosecution has been miserably failed to prove the encroachment over the land.

15. Further there are no any photographs showing the encroachment on the land. Now the only question before the court is that whether the accused is liable to be punished for the alleged encroachment.

*Attested*

Divisional Forest Officer  
Faridabad Forest Division  
Faridabad

(Ramawatar Parzek)  
Presiding Officer-cum-JMIC,  
Special Environment Court,  
Faridabad. 11.5.2015.

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Authorised by Sec. 7b of the  
Indian Evidence Act

25-8-15  
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I am of the considered opinion that it was a lapse on the part of prosecution not to examine any witness who could connect the accused with the present land but this lapse ipso facto is not the sole ground for acquittal of the accused. Except oral version of PW1 no other evidence is present on file. The accused has no where been connected with the present encroachment of the land and hence he cannot be held guilty. No any document has been placed upon file which could show that any of the amenities are being used by present accused on the land in dispute or he has any electricity or water connection at the spot. This fact of not connecting the accused with the ownership of the land is fatal for the prosecution as without establishing the identity/relationship of the accused along with the land the accused cannot be held liable for offence of encroachment. It was primary duty of the prosecution to connect the accused with the case file and the prosecution has miserably failed to connect the accused with the case. Hence, he cannot be held guilty for the above mentioned offence.

16. Further, it is admitted by the prosecution witness that no independent witness was joined at the time of investigation of the present case. Thus the testimonies of official witness who has been examined by prosecution, has remained uncorroborated from any independent source. It is correct that the prosecution case be sustained on the testimony of official witness alone and he has not to be disbelieved merely because of his official status, but at the same time, the official of department always remains interested in success of his case and he even act overzealously some time. Where the prosecution case rests solely on the statement of

Attested

(Ramawatar Pareek)  
Presiding Officer-cum-JMIC,  
Special Environment Court,  
Faridabad. 11.5.2015.

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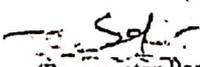
Authorised by Secy to the  
Indra Vidyanagar

official witnesses and no independent witness was joined then evidence shall at least be required to be put to close scrutiny. Strangely, prosecution has failed to explain that how and in what manner it has connected accused with the crime in question.

17. The principles of criminal jurisprudence are very clear that the prosecution side is expected to prove its case beyond a reasonable shadow of doubt and not by a mere pre-ponderance of probabilities, which also has not been done so in the present case.

18. In view of above discussion, I am of the considered opinion that prosecution has miserably failed to prove the guilt of the accused. Accused is hereby acquitted of the charge leveled against him. Bail bonds and surety bonds of the accused stand discharged. File be consigned to record room.

Announced in the open court  
Dated: 11.5.2015

  
(Ramawatar Pareek)  
Presiding Officer-cum-JMIC,  
Special Environment Court,  
Faridabad.

Certified that all the five pages of this judgment are checked and signed by me.

  
(Ramawatar Pareek)  
Presiding Officer-cum-JMIC,  
Special Environment Court,  
Faridabad. 11.5.2015.

Certified to be True Copy.

Authorised by sec. 76 of the  
Indian Evidence Act

25-8-15

Attested  
  
Divisional Forest Officer  
Faridabad Forest Division  
Faridabad.



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रिपोर्ट क्षति नं.

Pen No G.P.S. 2016-17

क्रम संख्या 15

Book No. 09 Sr. No. 336

वन विभाग हरियाणा मण्डल फरीदाबाद

रिपोर्ट नं. 09/336

सेवा में.

परिक्षेत्र अधिकारी फरीदाबाद परिक्षेत्र सुन्दरगढ़

श्रीमान जी.

आज तिथि 15 मास 03 साल 2016

को जंगल का दौरा किया गया और निम्नलिखित नुकसान पाया। उपरिलिखित G.P.S पर PIPA 1900 की धारा 4-5 के अन्तर्गत वन क्षेत्र में गांव सुनतगढ़ में मुलाजिम द्वारा लोहे की दरवाजा लगाया जाया गया। मुलाजिम ने डुम के बूला किया लेकिन D.R. Book में इसका नाम करने से मना किया। विवरण इस प्रकार है:-  
01 Syro लोहे की दरवाजा - 40 x 30 24 x 10

मुलाजिम का नाम राजकुमार, जयद्वार स्के

पिता का नाम स्के. चन्दु जाति गुजर

गांव सुनतगढ़ भौका/पर/नहीं/पकड़ा गया।

वन राजिवर अधिकारी  
सैठ 17, बाई पास रोड  
फरीदाबाद

हल्का वन रक्षक

Attested

Divisional Forest Officer  
Faridabad Forest Division  
Faridabad