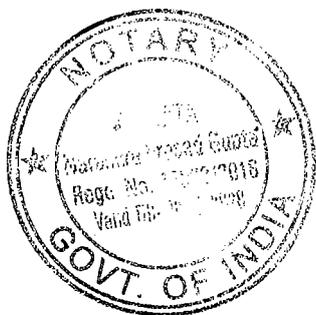


Sl. No.14/24.....

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH , FINANCE CENTRE,
3RD FLOOR, NEW TOWN, KOLKATA

Original Application No. 133 Of 2023/EZ



In the matter of :

Serajul Islam & Anr.

..... Applicants

Versus

The State of West Bengal & Ors.

..... Respondents

COUNTER AFFIDAVIT OF BEHALF OF THE APPLICANTS NO. 1 &
2 TO THE AFFIDAVIT IN REPLY FILED BY THE PRIVATE
RESPONDENT NO. 17 BEING BUDISHAL SOREN.

I, Serajul Islam , son of Nurul Islam, aged about 25 years, by faith - Muslim , by occupation - Social worker , residing at Vill - Natungram, Ward No.12, Nalhati M, P.O & P.S - Nalhati, Dist - Birbhum, West Bengal - 731243, do hereby solemnly affirm and state as follows :-

1. I am the authorized representative in the instant proceeding and the authorized representative of applicant No 2. I am well acquainted and fully conversant with the fact of circumstances of the case . I am competent to make , affirm and swear the instant affidavit for myself and on his behalf .

15 JAN 2024

2. The applicants filed an original application Under Section 18(1) read with Section 14,15 and 17 of the National Green Tribunal Act, 2010), being Original Application No. 133 of 2023/EZ against the respondents in order to restrain the operation of illegal mining and stone quarrying activities within the district of Birbhum without any Environment Clearance, Mining Policy and other statutory permissions.

3. The deponent states that the application has not been preferred before the National Green Tribunal with any vindictive or malicious motive against the private respondents. the main reason for preferring the original application is to protect , preserve and conserve the hills from being destroyed and / or exploited by illegal miners and to restrict Environmental pollution and degradation and / or damage of the environment.

4. The answering deponent states that the applicant No 2 is the legal and recorded owner at Mouza - Madna , J.L. No. 11 , plot No. 707, 708, 712, 713, 714, 715, 716, 670, 677 in khatian No. 88, 1070, 1074, 1076, 1205, 1316, 322, 346, 807, 813, 814, 815, 1206, 1214, 12346, P.S.- Nalhati , within district - Birbhum.

5. The applicant No.2 acquired the aforesaid land in the year 2015 by away of deed of conveyances duly executed by its original owner vide various deeds registered in the office of the D.S.R. Birbhum The applicant no. 2 is in legal and lawful possession of the said property. His name is also recorded in the L.R. and records of right. Copies of the said deeds maybe produced under directions of the Hon'ble Court if required .



6. That in the year 2019 to 2023 several false deeds of the same plots were made as mentioned in paragraph no. 4 .

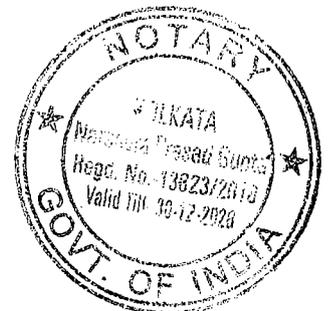
7. Under the above circumstances the applicant No. 2 filed applications being title suit no. 94 of 2023 & Title suit no. 144 of 2023 in the Court of the learned Civil Judge Senior Division 2nd Court at Rampurhat in Birbhum. In both these Title suits the respondent nos. 16 & 17 are defendants.

Copies of the orders dated 19/12/2023 are annexed here with and collectively marked as Annexure - A .

8. The applicants state that the above mentioned Title suits are matter of Civil disputes and has no relevance with regards the disputes of damages to the environment raised in this Hon'ble Tribunal . The defendants are deliberately and willfully mentioning the said Civil matters in order to deviate and divert this Hon'ble Court's attention from the main topic of concern i.e the damage to the environment and delay the Court's proceedings .

9. On 22.11.2023 the deponent received copies of Affidavit - In - Opposition on behalf of the respondent No. 16 & 17 to the Original Application via email . The said application was read over to him and the applicant No 2 and they have understood the true scope, purport and meaning thereof.

10. The answering deponent with reference to statement in paragraph nos. 1,2,3,4,5,6,7, 8, 9 & 10 denies and disputes each



and every allegations made therein save and excepts that which are matters of record .

11. With reference to statements made in paragraph No. 3 it is denied and disputed that the original application is not maintainable in law and the said application has been filed suppressing material facts it is also denied that the applicants have no locus standi to prefer this application.

It is a fact and it cannot be denied that illegal and unauthorised mining and stone quarrying are continuing at the said plots within the district of Birbhum without any licence and or permission or clearance from the concerned authorities . A copy of the letter dated 27.07.2023 by Pausali Mukherjee, WBSL Sr. Law Officer & SPIO stating that SEIAA has not issued any Environment Clearance to such project is already annexed with the original application being Annexure - G (Page no. 61)

12. With reference to statements made in paragraph No 4 & 5 , the answering deponents states that the respondent No 17 is not / co-owner of the said property and as such they have submitted a false deed of conveyance in this Hon'ble Court and there are title and partition suits being title suit no. 94 of 2023 & Title suit no. 144 of 2023 pending before the Court of the learned Civil Judge Senior Division 2nd Court at Rampurhat in Birbhum. In both these Title suits the respondent nos. 16 & 17 are defendants. Copies of the orders dated 19/12/2023 are annexed here with and collectively marked as Annexure - A .

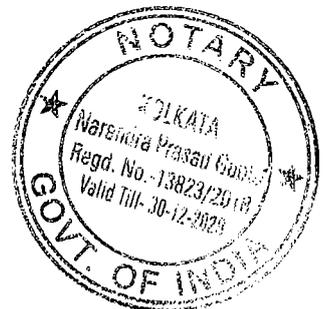
13. With reference to statement made in paragraph No. 5 and 6 it is further stated that illegal and unauthorized mining and



quarrying a continuing by the private respondents including the respondent Nos. 16 & 17 . Causing environmental pollution and degradation and / or damage of the environment in violation of and/or against the provisions of Environment (protection) Act,1986, the Air (prevention and Control of Pollution) Act , 1981, the Water (Prevention and Control of pollution) Act, 1974 and other laws, rules and regulations relating to protection and preservation of environment . A copy of the letter dated 27.07.2023 by Pausali Mukherjee, WBSL Sr. Law Officer & SPIO stating that SEIAA has not issued any Environment Clearance to such project is already annexed with the original application being Annexure - G (Page no. 61)

The applicants state that the Hon'ble Green Tribunal, is a statutory body in India that deals with expeditious disposal of cases related to environmental protection and other natural resources and not disputes relating to Title and possession of land and property. Thus the allegations made in paragraph no. 5 is frivolous , irrelevant and baseless that the applicant No. 2 has filed the instant application with malafide intention to grab the disputed property.

14. With reference to statement made in paragraph No 7 the answering deponents reinforce that the private respondents including respondents No. 16 & 17 are actively involved in stone quarrying activities which are continuing till date in-spite of constant complaints to the concerned police authorities with regards to the same.

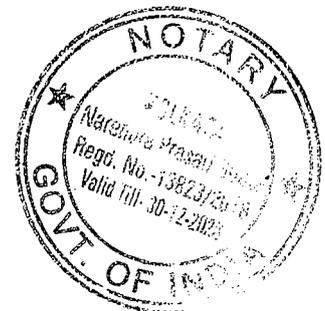


A copy of the said written complaints dated 12.12.2023 & 16.12.2023 are annexed here with and collectively marked as Annexure P - 3 .

15. The answering deponent states with reference to paragraph no.8 and 9 that the applicants No. 2 had filed several 144 application under the Criminal Procedure Code in District Court with regards to the same being Misc case nos. 2248 of 2022 , Misc case nos. 95 of 2023 , Misc case no. 2037 of 2023 , Misc case no. 2038 of 2023 , Misc case no. 437 of 2023 , Misc case nos. 454 of 2023 and Misc case nos. 2070 of 2023, whereby specific direction were given by the learned Executive Magistrate , Rampurhat, Birbhum to the officer in charge of Nalhati P.S. that no unauthorized digging / extraction shall be made by O.P without prior permission of the authority over the suit plot till for the order .Copy of the said orders are annexed with the original application.

16. Your applicant No. 2 also filed application for injunction in the court of the Ld. Civil Judge Sr. Div , 2nd Court, Rampurhat being T.S. No. 94 of 2023 and T.S. No. 144 of 2023. Direction was given to both the parties to maintain status quo as regards the nature, character and possession in the suit property. Also a commissioner was appointed for the local inspection. A copy of the said restraining order has been annexed with the original application.

17. The deponent states that in a representation from Ms. Pausali Mukherjee , WBSL Sr. Law Officer &SPIO that SEIAA (State Environment Impact Assessment Authority) has not issued



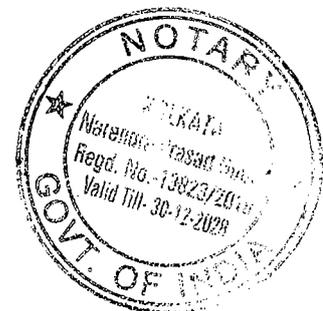
any Environment Clearance to such project. A copy of the said representation is annexed with the Original Application .

18. The answering deponent thus state that with reference to the allegation made by the private respondents in paragraph no. 8 that the applicants had initiated several proceedings and unable to obtain any affective order preferred the present application with malafide intention to cause harassment to the respondents are wholly and completely false , concocted and baseless . There is no iota of truth in the said allegations. The private respondents are actively involved in the stone quarrying activities without any Environment clearance to such project .

It is further stated that Copies of the orders dated 19/12/2023 reflects the true status of the present situation.

19. The answering deponent denies the allegations with reference to paragraph no 10 that the application has been filed to harrass .it is a fact that the private respondents are actively involved in the said illegal mining and stone quarrying activities which are in operation extensively and on a massive scale over the entire Mouza - Madna , J.L. No. 11 , Nalhati . Heavy explosives are being used , the entire area is filled with fragmentation of rocks , dust , smokes and heavy metals and thus immediate effective restraining measures should be taken to stop the illegal quarrying activities.

Mining explosives were recovered in massive quantity from the residence of the respondent no. 17 as reported by the WB NEWS ,an online News Channel on 16.12.2023 .



20. The answering deponent states that such mining and stone quarrying is being carried out in the entire Mouza - Madna , J.L. No. 11 , Nalhati unabated and without any restraint by the concerned police authorities right the under the eyes and with consent of higher state authorities .

21. The answering deponent therefore most respectfully and humbly craves before this Hon'ble Tribunal that an appropriate order / direction may be passed for restoration , protection and preservation of entire Mouza - Madna , J.L. No. 11 , Nalhati.

22. The statements made in paragraph Nos. 1 to 18 are true to my knowledge and belief and the rest are my humble submissions before this Hon'ble Tribunal.

Prepared in my office
Identified by me
Masnoon Islam
Advocate **Advocate**
WB/1725/02

Seraful Islam.
Deponent

L.T.I.(s)/Signatures(s) of the
Executant/s attested by me on Identification

[Signature]
NARENDRA PRASAD GUPTA, NOTARY
Advocate, HIGH COURT, KOLKATA
Regd. No.-13823/2018, Govt. of India

NARENDRA PRASAD GUPTA
NOTARY
GOVERNMENT OF INDIA
REGN. NO.-13823/2018
2.
ADVOCATE, HIGH COURT CALCUTTA
8, Old Post Office Street (Ground Floor)
Opp. F-Gate (High Court)
Mob.-8910576674
9883135090



15 JAN 2024

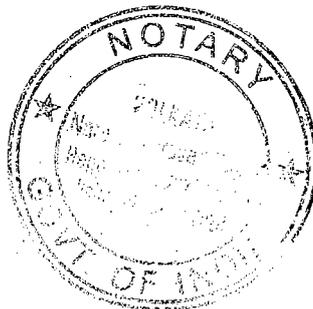
T.S. 94/23
CNR-WBBB07-000111-2023

O. 19 dt. 19.12.23

Today is fixed for injunction hearing, w.o, w.s.
Ld. advocate for the plaintiffs files hazira and also files a petition for extension of ad-interim injunction on the ground stated therein. Prayer is considered and allowed.
The order of ad interim injunction is extended till the next date.
Ld advocate for the defendant no. 1,2,3,8,13,14,16,17 files a time petition for w.o & w.s.
Prayers are rejected as the statutory period to file written statement is over.
Let the suit be proceeded exparte against the defendant. 1,2,3,8,13,14,16,17.
Ld regular P.O. is transferred.
Hence Court is lying vacant.
Case is adjourned.
To 19.01.24 for injunction hearing on exparte basis.
D/c

Addl. District Judge
Rampurhat, Birbhum
J.O Code:- (WB00770)
(In-Charge of)
C.J(S.D)
2nd court, Rampurhat

Addl. District Judge
Rampurhat, Birbhum
J.O Code:- (WB00770)
(In-Charge of)
C.J(S.D)
2nd court, Rampurhat



From:
 Manis Majhi
 s/o Late Gidan Majhi,
 VII, Bafarampur, (Singara)
 P.S. Bafarampur, Dist: Birbhum,
 Pin-731222, West Bengal,
 Date: 12.12.2023

To

1. District Magistrate,
 Birbhum, Administrative Building,
 Sur Main Road, Suri, Birbhum,
 West Bengal, - 731101,
 Email :- dm-bir@nic.in

2. Superintendent of police,
 Birbhum,
 Suri, West Bengal - 731107
 Email :- sspbirbhum@gmail.com

3. Inspector - in - Charge,
 Nalhati,
 Police Station,
 Birbhum,
 West Bengal - 731243,
 Email :- spbirmwbe@gmail.com

Ref:- Complaint against 1. Sainul Islam (Bapl), son of Md Hanif (Robl), Residing at Village Ekjala, P.O. Mallickpur, P.S.- Margram, District - Birbhum, W.B. Pin-731202, 2. Mustak SK, Son of Late Hakim SK, Residing at Nalhati, Mondalpara, P.O. & P.S. - Nalhati, District - Birbhum, Pin-731243, 3. Pasrel Hasda, son of Benjamin Hasda, residing at Village - Chhimpur, P.O.- Banlor, P.S. Nalhati, Birbhum, Pin-731243, 4. Joseph Hansda, son of Matlal Hansda of VIII - Lakhamara @ Laxmanmara, P.O. Horioka, P.S. Nalhati, Dist: Birbhum, W.B. Pin-731243, and 5. Budshah Soren, son of Ramjatan Soren, VIII - Chandannagar, P.O. Horioka, P.S.- Nalhati, Dist: Birbhum, Pin- 731243 actively involved in illegal stone quarrying activities over plot No. 707,708,712,713,714,715,716,670,677 in Khatian No. 88, 1070,1074, 1076, 1205, 1316, 322, 346, 807, 813, 814, 815, 1206, 1214, 12346, IL. No. 11, Mouza - Madna, P.S. - Nalhati, Within district - Birbhum.

And with reference to written complaint dated 14.10.2023:

Sir,

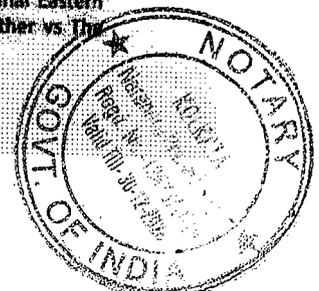
This is to intimate you that I am the legal owner of the above mention plot and I would like to inform you that the above mentioned persons along with their men are actively involved in illegal stone quarrying activities over the said plot. I have lodged several complaint with the concerned police authorities with regards to the same.

I have also initiated several criminal and civil proceedings in the district court against the above mentioned persons.

However, in spite of several representations before the concerned police authorities and the criminal and civil proceeding in the district courts no action have been taken by the police authorities and the said stone quarrying activities are still continuing over the said plots. Heavy explosives are being used for fragmentation of big rocks and the atmosphere is filled with dust, smoke and heavy metals. Big boulders generated from such quarry activities are being transferred to the stone crushing units operating in different areas of the district.

States Environment Impact Assessment Authority (SEIAA), West Bengal has given notice that they have not issued any Environment clearance certificate for such stone quarry activities as mentioned above, how ever the illegal activities are continuing.

Under such circumstances an application was filed before the National Green tribunal Eastern zone bench, Kolkata being Original Application no.133/2023/EZ, Serajul Islam and another vs The state of west Bengal and others.



The matter was heard by the Hon'ble National Green Tribunal on 4.10.2023. A copy of such order has already being served upon the state and concerned police authorities.

In spite of such legal measures in the appropriate courts of law, the illegal stone quarry activities are continuing till date. Further more the above named persons are threatening to initiate false criminal and civil proceedings against Serajul Islam and myself if we do not withdraw the legal proceedings against them and their men in different courts of law.

Please be kind enough to realize the gravity of the situation and take appropriate preventive and restraining measures against the above named persons and their men immediately else we may suffer irreparable damage to our lives and property.

And for this of the kindness I shall be ever obliged.

Thanking You,

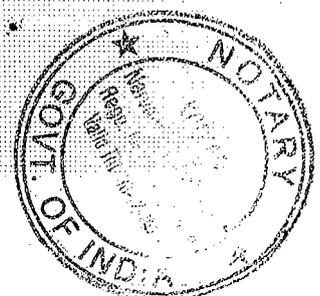
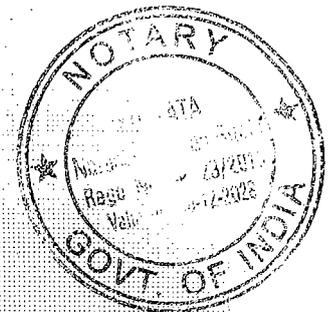
Your Faithfully,



LIT of Mamla Majhi
by the pen of Serajul
Islam.

Serajul Islam

Written, read over and explain by Ms Nasreen Islam
Associate
High court Calcutta
Bar association Room No.4
Kolkata - 700001.



From:

Mamla Majhi,

S/o Giden Majhi,

Vill - Balarampur (Singara), P.S. Murarai, dist. Birbhum

PIN-731222

Dated: 16.12.23

To,

1. The Superintendent of Police,

Birbhum, Suri, West Bengal, PIN: 731107. Email: spbirbhum@gmail.com

2. The Officer-in-Charge,

Nalhati Police Station,

Birbhum,

West Bengal, PIN-731243. Email: spbhmwbb@gmail.com

3. The West Bengal Pollution Control Board, service through the Chairman, Paribesh Bhawan, Plot No. 10A, Block - LA, Sector - III, Bidhannagar, Kolkata, PIN-700106. Email: environmentwb@gmail.com

Sub: Complaint against Operation of illegal and unauthorized mining and stone quarrying at Plot No. 707, 708, 712, 713, 714, 715, 716, 670, 677 in Khatian No. 88, 1070, 1074, 1076, 1205, 1316, 322, 346, 807, 813, 814, 815, 1206, 1214, 12346 J.L. No. 11, Mouza - Madna, P.S. Nalhati, district - Birbhum by Balaen yadav s/o Mohesh Yadav residing at Nalhati pathar kal para, P.O. & P.S. - Nalhati, dist. Birbhum, Pin: 731343 and with reference to earlier complaint dated 12.12.23.

Sir(s),

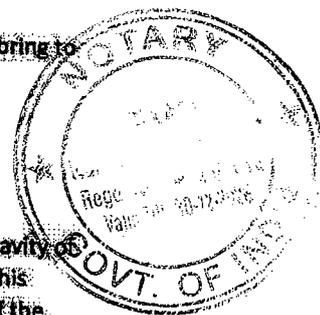
I am the recorded owner of the above mentioned plots and as such I would most humbly like to bring to your notice that illegal mining and stone quarrying activities are being carried out at the aforementioned location by the above named person and his other associates mentioned in the complains lodged earlier with you.

Mining is been processed on an impressive large scale.

Under the aforesaid circumstances I, most humbly pray to your good selves to understand the gravity of the situation and take immediate appropriate measures to refrain the above named person and his associates from damaging the environment and endangering the health and lives of the people of the surrounding neighborhood.

And for this act of kindness I shall be ever grateful.

Thanking you,



Yours faithfully,

 *Serajul Islam*

LTI Of Mamia Majhi.

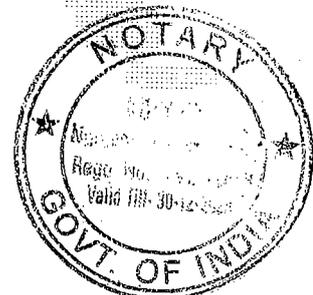
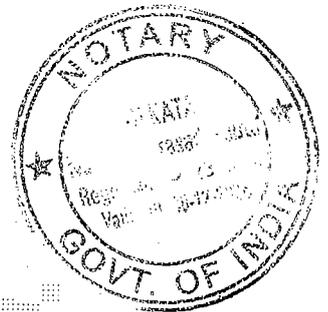
By the pen of Serajul Islam.

Drafted, Read over and explained by

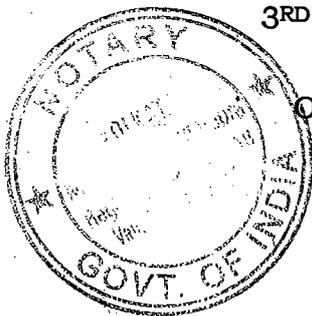
Ms. Nasreen Islam

Advocate,

High Court, Calcutta



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, FINANCE CENTRE,
3RD FLOOR, NEW TOWN, KOLKATA



Original Application No. 133 Of 2023/EZ

In the matter of :

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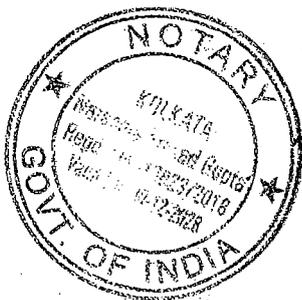
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COUNTER AFFIDAVIT OF BEHALF OF
THE APPLICANTS NO. 1 & 2 TO THE
AFFIDAVIT IN REPLY FILED BY THE
PRIVATE RESPONDENT NO. 16
BEING JOSEPH HANSDA.



Nasreen Islam
Advocate
High Court, Calcutta
Bar Association Room No. 4
Mobile No. 8777575987