

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL AT PUNE

APPLICATION NO . 71 OF 2019

(U/s. 14 & 15 of National Green Tribunal Act, 2010)

DISTRICT- PALGHAR

Mr. Dhananjay Patil & others

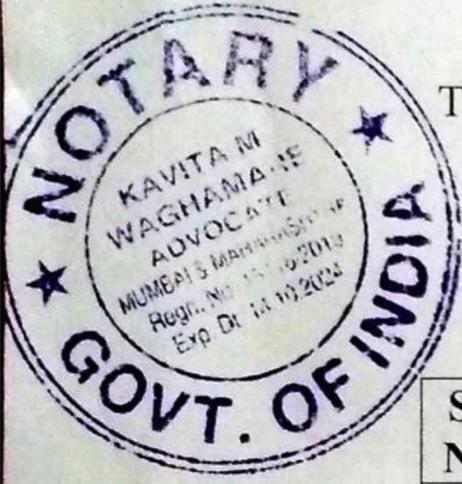
....Applicants

Versus

The State of Maharashtra & Ors

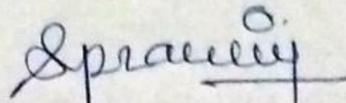
...Respondents

REJOINDER AFFIDAVIT (APPLICANT)



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1.		Rejoinder Affidavit	555-559
2.	"1"	Copy of the Photographs	560

Dated 29TH day of November, 2021


Dr. Ramdas P. Sabban
Advocate for Applicants

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Versus
The State of Maharashtra & Ors ...Respondents

REJOINDER AFFIDAVIT (APPLICANT)

I, Mr. Dhananjay Patil, Age-43 years, Occ. Agriculture, residing at –
Chikhale, Taluka-Wada, District-Palghar, do hereby state on solemn
affirmation as follows :-

1. I say that I have gone through the Affidavit in Reply filed by the Respondent No. 3 and 4 in the present matter and I am filing the present Rejoinder Affidavit thereto as under :-
2. I say that there two major incidents –one is in the year 2010 when naturally flowing water canal stream was diverted with huge soil excavation by Respondent No.3 company damaging Applicants crop boundaries, and second in 2015 when the Furnace Oil spilled into Applicants agricultural soil substantially affecting land fertility and crops yield till today. As such there is a continuing cause of action till today as the crop damage continues as on today. The Reserachers have found



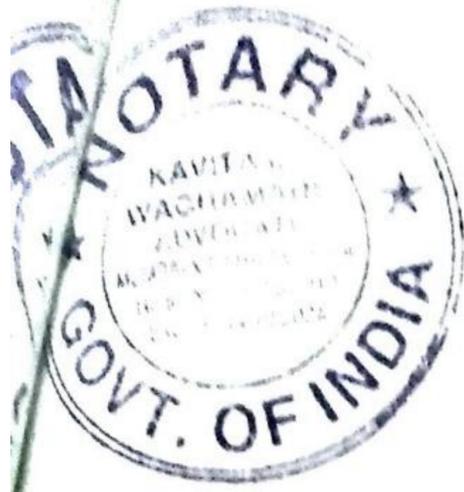


that (as per Google) " Soils contaminated by petroleum hydrocarbons can affect soil health. And it can do so at much lower concentrations compared to the effects on human health. ... These types of petroleum products can clog the soil so that water and air is difficult to move to plant roots, resulting in drought-like symptoms". I say that the Respondent No.3 company in its affidavit dt. 06-10-2021 in para 5 has specifically admitted that there was an accidental oil spillage in the year 2015 with residue remaining in 2016. It is also admitted by the Respondent No.3 that the Agricultural Officer in its spot Panchnama dt. 15-09-2015(Exh.-I, page No.-62,63) had assessed damage to the crops of 17 farmers at Rs.7,24,128/-. It is also admitted in para-6(ii)(k) that the spot inspection was done by Tahsiladar Wada and Sub-divisional Officer on dt. 26-12-2010 and 10-02-2011 were it was prima facie found that spoil has been dumped and illegal construction has been made in the nalla. The said huge 15.36 hectares rice crops loss is of the year 2016 and the said rice crops loss amount was arrived at Rs. 7,24,128/- on the basis of Minimum Support Price (MSP) for rice crops for the year 2016. I say that the said compensation was decided for only one year of 2015-16. I say that from the year 2015 there is continuous rice crops loss till today as the oil spillage has substantially damaged the soil. As such the Applicants are entitled to get further compensation at MSP for rice crops fixed from time to time for the area by the Govt. for the year 2015 till today along with the 15% p.a. interest on the respective yearly crop loss compensation

amount from the respective year of crop loss due ⁵⁵⁷ dates till the date of payment. I say that this Hon'ble Tribunal has all the ancillary and consequential powers to grant the equitable interest on the said compensation.

3. I say that the furnace oil spillage incident happened in 2015 badly damaging rice crops, and the this Application filed within 5 years period Under Sec. 15. I say that this Hon'ble Tribunal has power Under Sec.14&15 to grant appropriate relief, compensation & restitution, under heads under Schedule- II- (e) damage to private property (m) loss of business and employment loss.
4. I say that the Respondent No.3 company in its affidavit dt. 15-11-2010 (Exh.A) had admitted that then existing flowing water nalla, canal, stream at Vijaypur Village- Chikale was damaged due to faulty and illegal construction made by them damaging the boundaries of the Applicants crop, lands, and the respondent company had agreed to rectify there mistakes. However, the said nalla is not restored to original position. Hence, the said natural water nalla may be restored in original nalla in 2010 as directed by the Tahsildar of Wada Taluka by order dt. 11-02-2011 – page No. 42(Exh.c) issued after spot inspection. I say that on the basis of the District mining officer dt. 16-08-2011(Exh.-K, Page No.64) Tahsildar Wada also by order dt. 10-10-2011(Exh-D-,page No. 43) imposed royalty or





penalty of Rs. 7,64,40,200/- for illegal excavation of nalla soil of about 12899 brass. The said Royalty/ Penalty is liable to be recovered with interest from due dates to till the date of payment. I further say that the said flowing nalla is liable to be restored as per Schedule -II (K) of the Act.

5. I say that the applicants are uneducated and agriculturalist who are not aware of complex legal provisions and procedure. Hence, they couldn't approach this Hon'ble Tribunal.
6. I say that the rice crop area at survey No. 61/2 of Applicant No.1 admeasuring. 0=65 Guntas is fully damaged and is rendered uncultivable (Photographs attached as Annexure-1) due to said furnace oil spillage and the same may be purchased by the Respondent No.3 Company. I say that then in charge of Respondent No. 3 company Mr. Agarwal/ Parmar in the year 2016 had offered Rs.2 crore as compensation for purchase of damaged lands , but the Applicant No.1 demanded Rs.3 crores, which is liable to be paid with interest @ 15% p.a. from the year 2016.

I say that whatever stated hereinabove is true and correct to the best of my knowledge and belief, and I believe the same to be true and correct.

Solemnly affirmed at Mumbai.

On this 29th November, 2021.

Sprainy
Advocate for the Applicants





VERIFICATION/AFFIDAVIT

I, Mr. Dhananjay Patil, Age-43 years, Occ. Agriculture, residing at -
Chikhale, Taluka-Wada, District-Palghar, hereinabove do hereby state
on solemn affirmation that whatever hereinabove is true and correct
to the best of our knowledge and belief.

[Signature]
(Applicant)

Solemnly affirmed at Mumbai.

Identified by me,

[Signature]
DR. RAMDAS P. SABBAN
Ph.D. (Law)
Advocate High Court, Bombay
11 Beaumont Chambers,
27/33, Nagindas Master Road,
Fort, Mumbai-400 001. Tel. 2270 57 10

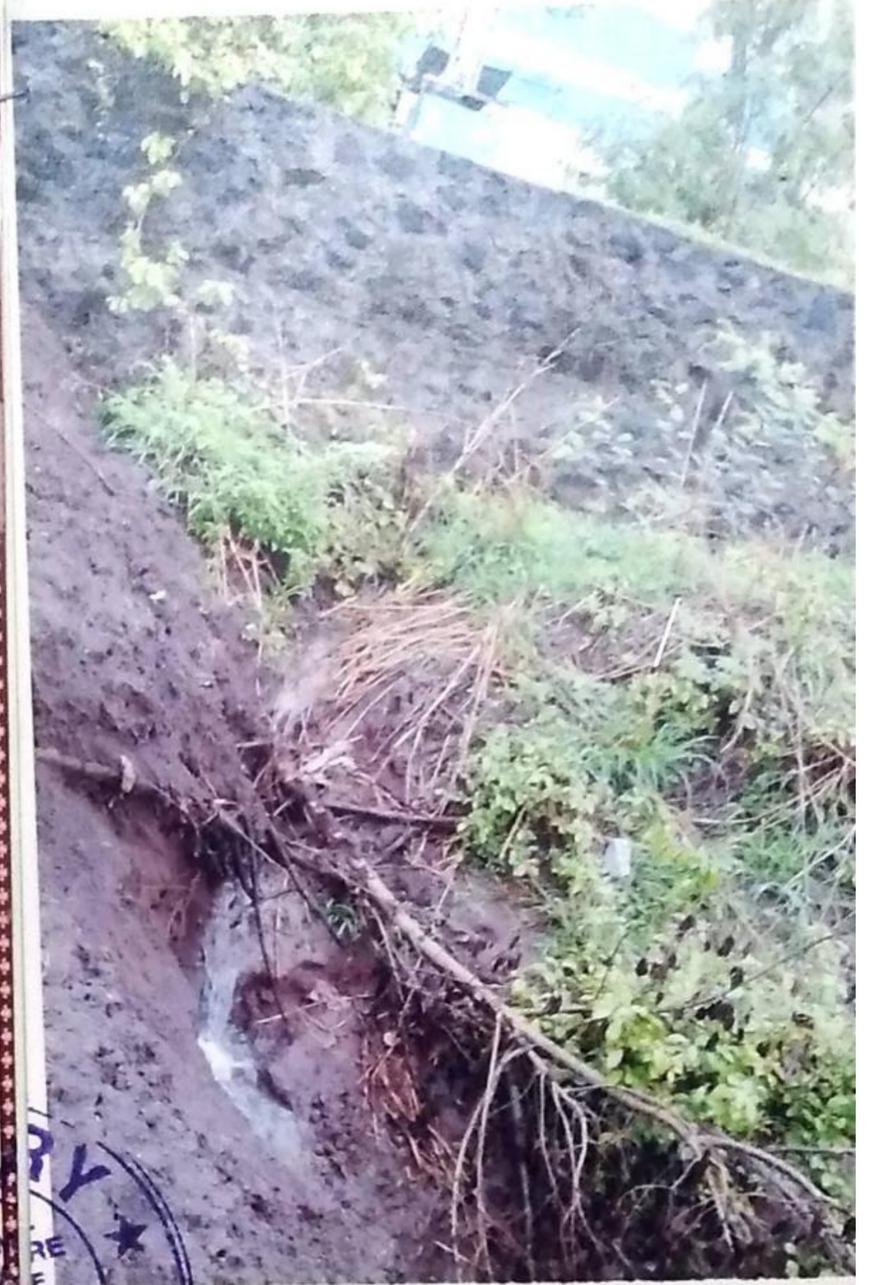
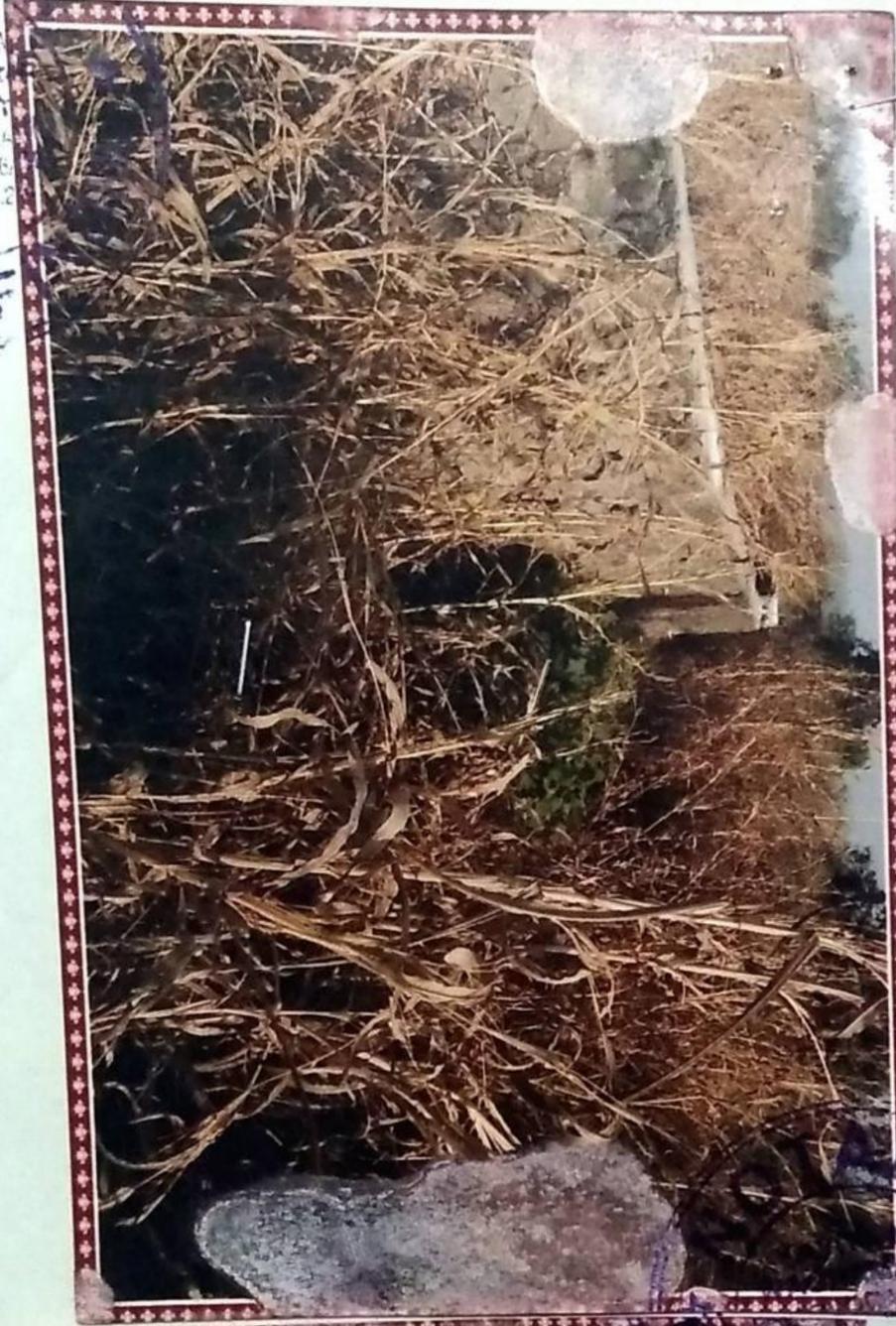
BEFORE ME
[Signature]
KAVITA M. WAGHAMARE
ADVOCATE & NOTARY
MUMBAI & MAHARASHTRA
REG. NO. 15116/2019
203, TOLARAM CENTRE,
N. G. ACHARYA MARG,
NEAR CHEMBUR STATION (E),
MUMBAI 400 071



SR. No. 3225 P. No. 10
NOTARY Register. 07 Date. 29/11/2021

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Annex I
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