

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO 17 OF 2023

IN THE MATTER OF:

SRIKANT PRADHAN & OTHERS

APPLICANT

VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

REPLY AFFIDAVIT OF RESPONDENT NO 14

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RESPONDENT NO 14 THROUGH



PLACE: Bhubaneswar

SANKAR PRASAD PANI

DATE: 12/04/2023

ADVOCATE

Plot 2132/4814, NageswarTangi, Bhubaneswar 751002 Cell-9437279278,

Email: sankarprasadpani@gmail.com

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REPLY AFFIDAVIT OF RESPONDENT NO 14

I, Jagadananda Mishra S/o Late Mukunda Mishra aged about 65 years, At- Mukunda Mishra Nagar Po- Gopinathpur, PS- Puri Sadar, Dist-Puri, 752002, Odisha, hereby solemnly affirm, and declare as under:

1. That I am the Respondent No 14 and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That the OA has not mentioned the date of arising of first cause of action thereby incomplete petition to be dismissed with cost.
3. The Applicant has **no locus standi** considering and admittedly the Jalasay Land is a private water body and there by the right of use is exclusive on the domain of Respondent No 15.
4. That the Original Application was filed by the applicant on the basis of an Undated complaint where in it states for last few days construction is ongoing in an water body belong to a private individual and copy of the undated letter sent on 28/01/2023 as claimed by the applicant. Few photographs of 4th January 2023 has been filed where it show some

building already exists, coconut trees are there, few plots have been demarcated. **There has been no evidence of ongoing construction in the photographs except some buildings already exist. Needless to say that no such claim has been made if those buildings are on water body. In the list of dates only the date saying representation filed on 28/01/2023, though the letter annexed is undated.**

5. That from the above facts it is clear that there has been no evidence of any kind of on-going construction, there has been no specific evidence to show that any construction took place on a water body, hence the allegations are vague and false. The photographs are also misleading because to create an impression that building exists on water body have been annexed with OA which are no way connected with the plot no 123, Khata no 165/1903, Mouza Gopinathpur and thereby the order dated 9/02/2023 was obtained from this Honble Tribunal fraudulently and by means of misrepresentation.
6. At the cost of repetition it is submitted that there has been no construction on plot no 123 and the present respondent did no construction on water body. The water body remains as it is and the photograph of water body on plot no 123 is annexed here with as **ANNEXURE-1**

PARA WISE REPLY

7. **That the applicant has nothing to say para 1 to 3.**
8. That the para 4 is a false statement and no documents has been placed to prove his credential. There has been no instance of his involvement in any environmental issues prior to this OA, hence the claim of Environmental Activists is unsubstantiated. On the contrary the present respondent states that the applicants are village touts and abusing the judicial process for personal vendetta against the present respondent.

9. That the para 5 of the application is false statement as there has been no construction on the plot no 123 and evidence has been placed on record by the applicant.
10. That the para 7 is incorrect as the Jalasaya does not help in passage of rainwater rather to accumulate the water. Hence this paragraph is a false statement
11. That the para 9 and 10 are false statements made on oath as no evidence has been placed by the applicant to show that the filling of water body by putting sands and construction of any residential houses. It is surprised to note that the applicant is claiming that the construction of house is ongoing in full swing but evidence of ongoing construction has been placed on record.
12. That the para 11 is false as because no construction is on the jalasay land over plot no 123 and thereby no obstruction of free flow of water. It appears this application is a Copy-Paste application where in facts of other cases have been pleaded by changing the plot number and name of respondent. It is submitted that three applications have been filed as OA 16 of 2023, OA 17 of 2023 and OA 18 of 2023. The applicant has reproduced the pleading of OA 16 in all other cases though the facts are different. It is submitted that the Jalasay Land is meant for holding/accumulating the water as well as for domestic consumption while PaniNalla is meant for passage of water and thereby they serve different purposes. As such Jalasay is confined by it's bunds and no possibility for connecting to any other water channel or water body
13. That the paragraph 13 is false as because there is no mangrove is the area in question
14. That the paragraph 14 is false and misleading as because the photographs of building annexed are not of plot no 123.

15. That the contents of the paragraph 15, 16 and 18 are false as there has been no construction, hence there is no damage to hydrographical environment. Further the allegation that applicant filed many grievance is not substantiated except the single undated complain annexed OA annexure-3.
16. That the statutes relied under heading ground of the application are not applicable in the present case. That for construction of a residential house as alleged in the OA which the present deponent denies and even the same is accepted for the sake of argument then also there is no relevance of Section 24 of the act which says about disposal of Poisonous, noxious or polluting matters determined in accordance with the standard laid down by state board into any stream or well or sewer or on land. As per the allegation there is no discharge or disposal of poisonous substance and nowhere the applicant stated the same is beyond the standards laid down by the Board nor the applicant could say what kind industrial activity is going on the said water body which is likely to discharge any pollution. On the other hand subsection 2 of Section 24 provides at least 4 exemptions such as right to construct or improve any building, bridge, weir and dam over water body.
17. Similarly Section 25 is also not applicable as there is no allegation of discharge outlet nor any industry, operation or process carried out on the said land.
18. That the pleading in the limitation clause is purely vague and vexatious as no evidence of ongoing construction and no date has been mentioned regarding the date of first cause of action
19. That the applicants are not entitled to get any relief claimed under prayer clause as no cause of action is there to entertain this original application,
20. That at the cost of repetition it is stated that none of the photographs are of plot no 123 and no construction has been there on the said plot. This

OA is based of false statements made oath and is purely an abuse of judicial process

21.It is submitted that filing of false affidavit is an offence and If a person voluntarily files a false affidavit, then he/ she can be punished under section 191,193,195 and 199 of the Indian Penal Code for giving false evidence. Punishment for filing a false affidavit is punishable by imprisonment for a term ranging from 3 to 7 years

22. Section 23 in The National Green Tribunal Act, 2010 is reproduced as follows

23 Cost. -(1) While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.

(2) Where the Tribunal holds that a **claim is not maintainable, or is false or vexatious**, and such claim is disallowed, in whole or part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be **false or vexatious, make an order to award costs**, including lost benefits due to any interim injunction.

23.That the present respondent prays for dismissal of the Original Application filing a frivolous application along with cost and direct the registry to file prosecution against the applicants namely Srikant Pradhan and Khetra Mohan Nayak for filing false affidavit in court

24.That the applicant seeks liberty of the tribunal to file further affidavit as and when desired by the Honble Tribunal.

RESPONDENT NO 14 THROUGH



ADVOCATE

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VERSUS

STATE OF ODISHA AND OTHERS ...

RESPONDENTS

AFFIDAVIT

23 MAR 2023

I, Jagadananda Mishra S/o Late Mukunda Mishra aged about 65 years, At- Mukunda Mishra Nagar Po- Gopinathpur, PS- PuriSadar, Dist-Puri, 752002, Odisha, hereby solemnly affirm, and declare as under:

1. That I am the Respondent No 14 and I am fully conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.
2. That I have read over the contents of the accompanying affidavit and the same is true and correct and is drafted on my instruction.

Jagadananda Mishra

DEPONENT

IDENTIFIED BY ME
[Signature]
ADVOCATE, BBSR

VERIFICATION

I verify that the contents of the above application are true and correct to the best of my knowledge and belief and nothing material has been concealed there from. Verified at Bhubaneswar on ... 23/3/2023

Jagadananda Mishra

APPLICANT



The above named deponent(s) being duly identified by Sri...
Attest...
23 MAR 2023
Notary, Bhubaneswar

JANMEJJAYA RAUTRAI
NOTARY, GOVT. OF ODISHA
BHUBANESWAR
Regd. No-ON-86/2012
Mob No-9337121273

ANNEXURE-1

Figure 1 THE PHOTOGRAPH OF WATER BODY ON PLOT NO 123 DATED 16TH MARCH 2023



Sankar Pani <sankarprasadpani@gmail.com>

Reply affidavit of Respondent No 14 in OA 17 of 2023

1 message

Sankar Pani <sankarprasadpani@gmail.com>

Thu, Apr 13, 2023 at 10:10 AM

To: tarun.patnaik87@gmail.com, Afraaz Suhail <afraazsuhail9040@gmail.com>, pbanerjeebihani@gmail.com, Subho Chakrabarti <sibo.chakrabarti@gmail.com>

Dear Sir

Please find the copy of Reply affidavit of Respondent in OA 17 of 2023.

Warm Regards

--

Sankar Prasad Pani, Environment Lawyer
National Green Tribunal Kolkata & Orissa Highcourt
Res-Plot No 2132/4814(B), Nageswar Tangi,
Bhubaneswar, 751002
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