

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

**O.A. No. 3 / 2024 / EZ**

**IN THE MATTER OF:**

Dasarathi Sethi & Anr. ... Applicants

**Versus**

State of Odisha & Ors. ... Respondents

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**Through:**



**[DHANANJAYA MISHRA]**  
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**Mobile: 8826009686**

**Date: 20.03.2024**  
**Place: New Delhi**

N. R. SL. NO. 785  
DATE 20.3.24

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
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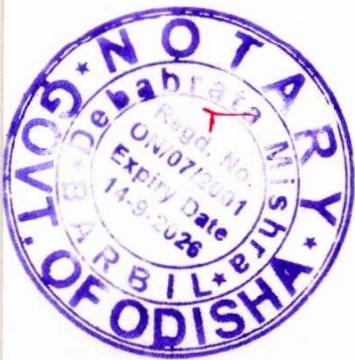
...

Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 7 – RUNGTA  
MINES LIMITED**

I, Pranaya Kumar Deo, aged about 52 years, son of Shri Prasanna Kumar Deo, resident of Ward No. 15, Sundra Basti, Dist-Kendujhar, Odisha, 758 035, being the authorized representative of the Respondent No. 7, do hereby solemnly affirm and state as follows:

1. That I am the authorized representative of the Respondent No. 7 (Rungta Mines Ltd.) in the above matter and as such am fully conversant with the facts and circumstances of the case based on the records maintained by the Respondent No. 7, and am therefore competent to affirm this Affidavit.
2. At the outset, the Respondent No. 7 categorically denies and disputes all the contentions and allegations raised by the Applicant in the captioned Original Application, save and except what has been specifically admitted hereunder. Any omission on the part of the Respondent No. 7 to deal with or controvert any contention of the Application should not be construed as an admission/acceptance thereof. Further, the Respondent No. 7 craves leave to add, amend, or supplement the present Reply at a later date, if deemed necessary.



For M/s. Rungta Mines Limited  
Pranaya Kumar Deo  
Director

Attested  
Date 20/3/2024

Suryakanta Tripathy (Adv.)  
Enrol. No. O-719/1991

3. That before adverting to the para-wise Reply on the merits of the Original Application, the answering Respondent seeks to place before this Hon'ble Tribunal certain Preliminary Objections, which in its respectful submission, are crucial for a holistic adjudication of the present matter.

**PRELIMINARY OBJECTIONS – THE PETITION IS LIABLE TO BE DISMISSED BEING VEXATIOUS, FRIVOLOUS AND SUFFERING FROM MALA FIDES INASMUCH AS THE PHOTOGRAPHS APPENDED TO THE APPLICATION ARE NOT RELATED TO THE R-7's PLANT IN ANY MANNER**

4. The Respondent No. 7 submits that the captioned Application is not maintainable and deserves to be dismissed by this Hon'ble Tribunal *in limine* for the reason that the same is vexatious, frivolous and contains an illusory cause of action inasmuch as the photographs appended to the said O.A., which forms the very basis of the Applicants' case, do not pertain to the R-7's plant. It is the case of the answering Respondent that the Applicant has not approached this Hon'ble Tribunal with clean hands and has filed a patently false Original Application, with no basis in law or in fact. Reliance is placed on *Ramjas Foundation & Anr. vs. Union of India & Ors*, (2010) 14 SCC 38, where the Hon'ble Supreme Court has unequivocally held as under:-



“21. The principle that a person who does not come to the Court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums”.

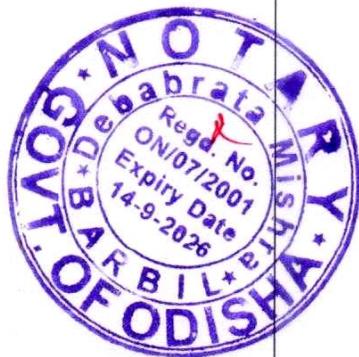
5. It is settled law that a petition must be rejected if it is vexatious and contains an illusory cause of action. In this regard, it is respectfully submitted that the present Application is riddled with false, bald, vague, omnibus and inflammatory allegations that are not *prima facie* backed by

For M/s. Rungta Mines Limited  
 A Heated  
 Suryakanta Tripathy (Adv.)  
 Enrol. No. O-719/1991  
 Director

an iota of documentary evidence or proof and has in fact wasted precious time and resources of this Hon'ble Tribunal.

6. The very basis of the application are the photographs appended to the application at Pages 18, 19, 20 and 21 of the OA. In this regard, the following facts are crucial to be highlighted for the attention of this Hon'ble Tribunal:

Photographs	Comments & Reasons
<p><b>Page: 18</b></p>	<p>The photograph annexed at Page 18 of the OA is that of a stone crushing / processing unit with three discharge arms, which is a photo-shopped image from the Internet, and is not a photograph of the R-7's plant.</p> <p>In this regard, reliance is placed on the news links at:</p> <ol style="list-style-type: none"> <li>1. <a href="https://khabarinfra.com/high-level-team-of-officials-visits-rajmahal-hills-to-curb-air-pollution/">https://khabarinfra.com/high-level-team-of-officials-visits-rajmahal-hills-to-curb-air-pollution/</a> which pertains to cognizance taken by the Hon'ble NGT to pollution caused by stone crushers in Rajmahal Hills, Jharkhand</li> <li>2. <a href="https://www.deccanherald.com/india/stone-crushers-cause-huge-pollution-degrade-environment-ngt-1004080.html">https://www.deccanherald.com/india/stone-crushers-cause-huge-pollution-degrade-environment-ngt-1004080.html</a> which pertains to cognizance taken by the Hon'ble NGT to pollution caused by stone crushers in Rajouri District, Jammu &amp; Kashmir</li> </ol> <p>A bare perusal of these news articles on the Internet would demonstrate that the Applicant has merely taken the photograph of stone crushers available in these articles, and made some minor edits / modifications thereto.</p> <p>It is also pertinent to point out that R-7 operates a steel plant and <b><u>does not operate</u></b> a stone crushing / processing unit.</p> <p>Copies of the said news articles are annexed herewith</p>



For M/s. Rungta Mines Limited  
 Approved by  
 Suryakanta Tripathy (Adv.)  
 Enrol. No. O-719/1990  
 Director

	and marked as ANNEXURE-A (Colly).
<b>Page: 19-20</b>	<p>The photographs appended at Pages 19-20 of the OA, which the Applicant alleges to be pertaining to the R-7's plant, are clearly that of some other plant. The reasons for the same are enumerated below:</p> <p>(i) The chimneys shown in the photographs at Pages 19-20 of the OA appears to be grey in colour whereas the chimneys at R-7's plant all have white and red bands / stripes and are visibly different.</p> <p>Copies of photographs showing the chimneys at the R-7's plant are annexed herewith and marked as ANNEXURE-B (Colly).</p> <p>(ii) The photographs at Pgs. 19-21 of the OA are clearly of some other plant since no such view from the road can be snapped of the R-7's plant.</p> <p>Copies of photograph of R-7's plant as taken from the road is annexed herewith and marked as ANNEXURE-C.</p> <p>(iii) The view from the road of R-7's plant shows at ANNEXURE-C above shows <u>multiple</u> electrical lines overhead, whereas the photograph at Pg. 19-20 of the OA only shows three electrical lines.</p> <p>(iv) Furthermore, the divider on the road as shown in the photographs at Pages 19-20 of the OA shows green plantation on the divider. However, the photographs of the divider on the road adjacent to the R-7's plant would show that the divider is barren with no green planation thereon. Furthermore, the kerb stone paint / markings on the divider shown at Page 19-20 of the OA show white and</p>



For M/s. Rungta Mines Limited  
 Director  
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	<p>black stripes, whereas the actual divider on road adjacent to the R-7's plant does not have any such kerb stone paint / markings.</p> <p>Copies of photograph of the divider on the road adjacent to the R-7's plant is annexed herewith and marked as ANNEXURE-D.</p> <p>For the foregoing reasons, it is abundantly clear that the Applicant has attempted to mislead this Hon'ble Tribunal by relying on photographs that are clearly of some other plant and have nothing to do with the R-7's plant.</p>
<p><b>Page: 21</b></p>	<p>The telecom tower shown in the photograph at Pg. 21 of the OA has 3 or more white circular discs at the top. However, such a telecom tower is not to be found at the R-7's plant. In fact, the following points are to be noted:</p> <ul style="list-style-type: none"> <li>(i) No telecom tower of the kind shown at Pg. 21 of the OA is to be found adjacent to the road near the R-7's plant.</li> <li>(ii) In the telecom towers at the R-7's plant, none of the telecom towers have three circular discs at the top.</li> <li>(iii) Further, the telecom tower shown in the picture at Pg. 21 of the OA does not bear resemblance with any of the telecom towers at R-7's plant.</li> </ul> <p>Copies of photographs of the telecom towers at the R-7's plant are annexed herewith and marked as ANNEXURE-E (Colly).</p>



7. That in view of the above, it is submitted that the photographs appended to the Original Application do not appear to pertain to the R-7's plant, and therefore the very basis of the Applicants' case is false, fabricated and fraudulent. In fact, the Applicants have clearly attempted to mislead this Hon'ble Tribunal by relying on photo-shopped images taken from the

For M/s. Rungta Mines Limited  
 Director  
 Suryakanta Tripathy (Adv.)  
 Enrol. No. O-719/1991  
 Pranjaya Kumar Deo  
 20/8/2024

Internet, and photographs of some other plant altogether, and thus the OA deserves to be dismissed for this reason alone, with heavy and exemplary costs.

For convenience, the Deponent is appending a comparative chart of the photographs produced by the Applicant, with the actual photographs of the R-7's plant, which is annexed as ANNEXURE-F.

8. Therefore, the cause of action, which is the very basis for filing this Original Application is false, fraudulent, and mischievous, and thus the same deserves to be dismissed at the very outset on this ground alone. The *prima facie* existence of facts constituting a dispute that give rise to a cause of action are conspicuously absent. In this regard, it is respectfully submitted that it is a settled position of law that if no cause of action is disclosed, the court ought not to permit protraction of proceedings and that in such a case, it would be necessary to put an end to such false litigation, so that further judicial time is not wasted.

***The Applicants are not Aggrieved Persons under Section 18 of the National Green Tribunal Act, 2010***



9. That the Applicants have not brought on record any material to show how they are aggrieved within the meaning of Section 18 of the National Green Tribunal Act, 2010. In fact, a bare perusal of the Memo of Parties would show that both Applicants are residents of Rourkela, which is approximately 105 kms away from the R-7's plant at Kamanda.
10. That further, the Applicants have not disclosed/substantiated their credentials nor demonstrated any environmental work in the region. Apart from the Applicants' *ipse dixit*, no material is produced on record to demonstrate their own credibility.

Attested For M/s. Rungta Mines Limited  
 Suryakanta Tripathy (Adv.)  
 Enrol. No. O-719/1991  
 Director

11. It may be noted that in the List of Dates, only a single date i.e., 11.09.2023 is shown, which refers to the letter / complaint appended at Annexure-B. In fact, the letter dated 11.09.2023 appended as Annexure-B to the Original Application does not bear the signature or name of either of the Applicants. The said letter is sent by a "Green Warrior Team" and no information is disclosed about this entity or its *bona fides* or how the Applicants are associated with the said entity.

12. At the cost of repetition, the Applicant through its Application has not been able to demonstrate infringement of a single legal provision and/or disclose any cause of action. This clearly demonstrates that there is something more than meets the eye and this Application has been filed with dishonest and oblique motives. Thus, the Applicants cannot be conceived as 'persons aggrieved' within the meaning of Section 18 of the NGT Act, 2010.

13. That this Hon'ble Tribunal in the case of *Anand Kumar Jha v. Union of India & Others [NGT Order dtd. 15.05.2023 (Appeal No.05/2021/EZ)]*, while placing reliance on the Hon'ble Supreme Court Judgment in *State of Uttar Pradesh & Ors. Etc. vs. Uday Education and Welfare Trust & Anr. [Civil Appeal Nos. 2407-2412 of 2021]*, had dismissed the Appeal due to Appellant's failure in clarifying his credentials and *bona fides*.

14. It is respectfully submitted that on this ground alone, the Original Application deserves to be dismissed *in limine* with huge costs for approaching this Hon'ble Tribunal with dishonest and oblique motives. The present Application is nothing but an attempt to file a vexatious and frivolous complaint under the guise of being an aggrieved person.

For M/s. Rungta Mines Limited  
 Attested  
 Suryakanta Tripathy (Adv.)  
 Enrol. No.O-719/1991  
 Director



15. That furthermore, the O.A. is filed under both under Section 14 and 15 (among others) of the NGT Act, 2010. It is well understood that a Section 14 application is materially and legally different from a Section 15 application. While Section 14 may be raised where a substantial question of environment arises from the Statutes mentioned in the Schedule of the NGT Act, 2010, a Section 15 application is raised only where a personal injury can be established as per the NGT Act, 2010 and as elaborated in Section 15 read with Schedule II of the NGT Act, 2010. The application thus also suffers from raising plural remedies which is prohibited under Rule 14 of the NGT Rules, 2011.

16. It is respectfully submitted that the aforesaid preliminary objections and grounds are sufficient for dismissal of the application with huge costs.

#### SUBMISSIONS ON MERITS

17. It is respectfully submitted that the present Application raises several unfounded and baseless allegations of breach of pollution control norms and lack of pollution control devices in relation to the R-7's plant.

18. In this regard, this Hon'ble Tribunal vide its order dated 19.01.2024 had constituted a Committee comprising of (i) Senior Scientist, Odisha Pollution Control Board, and (ii) District Collector-cum-Magistrate, Sambalpur, or his representative (not below the rank of Additional District Magistrate) to inspect the site and submit its report.

19. That in compliance with this Hon'ble Tribunal's order dated 19.01.2024, a Committee comprising (i) Dr Anup Kumar Mallick, Addl. Chief Env. Scientist and Regional Officer, Odisha State Pollution Control Board, and

For Ms. Rungta Mines Limited  
 Krunal Das  
 Director  
 Pranaya  
 20/2/2024  
 Suryakanta Tripathy (Adv.)  
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(ii) Shri Abhimanyu Majhi, Addl. District Magistrate, Sundargarh was constituted and they duly inspected the R-7's plant on 27.02.2024 and 28.02.2024 in the presence of the representatives of R-7. The said Committee has filed its Report dated 28.02.2024 before this Hon'ble Tribunal which is appended as Annexure R/2 of the Affidavit dated 04.03.2024 of the Odisha State Pollution Control Board as well as the Affidavit dated 06.03.2024 of the District Magistrate and Revenue Commissioner, and is being relied upon herein by the answering Respondent.

For M/s. Rungta Mines Limited  
 Affected  
 Suryakanta Tripathy (Adv.)  
 Enrol. No. O-719/1991  
 Pranjaya Kumar Dho  
 Director

20. A bare perusal of the said Report shows that the Committee found as follows:



**“Conclusion: -**

*In view of the above observation made during inspection, the industry has installed all requisite pollution control equipment's at proper places. From the analysis report it was also revealed that the parameters were within the prescribed standard of the Board which indicates proper functioning of installed pollution control equipment's”*

21. That the R-7 craves leave and liberty to rely on the detailed findings of the Report at the time of hearing if necessary.
22. That in view of the findings in the Report, it is abundantly clear that all allegations made in the Original Application are false, frivolous and misconceived.
23. That in view of the abovementioned facts and position of law, it is submitted that the present Original Application suffers from serious lacunae not only on grounds of maintainability and *bona fides* of the

Original Applicant, but also on merits and must be dismissed with huge and exemplary costs.

24. That the Deponent craves leave to add, amend or supplement this Affidavit on a later date, if deemed necessary, with the leave of this Hon'ble Tribunal.

25. That the facts stated herein above are true to the best of my knowledge The Annexures appended hereto are true copies of their respective originals. No material fact has been concealed herein.

For M/s. Rungta Mines Limited  
Ranaya Kumar Deo  
Director

Attested  
20/3/24

Suryakanta Tripathy (Adv.)  
Enrol. No. O-719/1991

Attested For M/s. Rungta Mines Limited  
Ranaya Kumar Deo  
Director

Suryakanta Tripathy (Adv.)  
Enrol. No. O-719/1991  
DEPONENT  
VERIFICATION



I, the deponent above named, do hereby verify the contents of the above affidavit as being true and correct. I state that nothing material has been concealed therefrom.

Verified at Barbil on this the 20<sup>th</sup> day of March, 2024.

For M/s. Rungta Mines Limited  
Ranaya Kumar Deo  
Director

Attested  
20/3/24

Suryakanta Tripathy (Adv.)  
Enrol. No. O-719/1991

Solemnly Affirmed before me  
20/3/24  
DEBABRATA MISHRA  
ADVOCATE & NOTARY  
Regd. No. ON/07/2001  
BARBIL, Dist. Keonjhar (ODISHA)

**ANNEXURE - A (Colly)**

## High-level team of officials visits Rajmahal hills to curb air pollution

*Senior officials woke up to oversee compliance of the National Green Tribunal order to check heavy dust pollution in Sahebganj due to illegal stone mines and crusher units*

By **Khabar Infra** - 02/21/2023



**Ranchi:** Prompted by the order of principal bench of National Green Tribunal (NGT), New Delhi, a high-level team of officials, led by Jharkhand's additional chief secretary, forest and environment, L Khiangte, carried out inspection of Rajmahal hills in Sahebganj to curb the menace of air pollution in the area.

Mines secretary, Jharkhand, Aboobacker Siddique, member secretary of **Jharkhand state pollution control board** (JSPCB) Yatindra Kumar Das, executive consultant of JSPCB Mani Bhushan and officer on special duty (OSD) of mined director Rajesh Raj Tigga were among the inspection team members. Sahebganj deputy commissioner Ram Nivas Yadav and divisional forest officer Manish Tiwari also accompanied the team during its visit to Godwa Pahad of Mandro circle of the district.

**Also Read:** [CMPDI invents unique tech to check fugitive dust, air pollution](#)

The team carried out to verify the compliance of an order that the **NGT, New Delhi**, had passed on August 23 last year. In its 21-page order, the principal bench of NGT had stipulated standard norms for operation of mines and crusher and the steps required to check the dust pollution that had taken its toll on ecology and biodiversity in the region.

Earlier, the district administration had carried out crackdown against illegal stone mines and crusher units operating at the foothills of Rajmahal hills. Officials said that more than five dozen illegal crusher units were demolished and heavy equipment were seized.

**Also Read: [NGT imposes ₹100-Cr fine on Haryana Govt for environmental loss](#)**

It is learnt that the top officials of the Jharkhand government woke up to the issue and decided to personally monitor the compliance of the NGT order, as the tribunal has set February 27 as the next date for hearing of the case. The officials are apprehensive that any laxity on their part may cause massive damage to the state and its mining sector.

A social activist Arshad Nasar had in 2017 approached the Kolkata bench of the NGT after repeated pleas of the local citizen to check contamination of the ambient air failed to evoke any positive response from the local authorities. In his petition, Nasar had claimed that dust particles emanating from crusher units had begun affecting the lives of vanishing Pahadiya tribes and eroding the efficacy of rare herbal plants growing up in Rajmahal hills.

**Also Read: [After Delhi, toxic air grips Bihar; Bettiah's AQI worsens to 633](#)**

In course of hearing of the case, it also came to light that biodiversity of the region was changing to worse and dust particles from crusher units had bad impact on aquatic life in the Ganga and flora and fauna in the vicinity. The court had suggested various measures to check air pollution, which included raising height of boundary wall of crushing units, installation of dust-absorbents, regular sprinkling of water and development of green areas, etc.

Home > India >

# Stone crushers cause huge pollution, degrade environment: NGT

The NGT Principal Bench headed by Chairperson Justice Adarsh Kumar Goel made this observation while hearing a plea



**Ajith Athrady**



**DHNS**

Last Updated 02 July 2021, 18:10 IST

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steps to prevent the destruction of the environment.

The NGT Principal Bench headed by Chairperson Justice Adarsh Kumar Goel made this observation while hearing a plea village sarpanch Arti Sharma about pollution caused due to the operation of stone crushers in the Saranoo Tehsil of Rajouri district in Jammu and Kashmir.

"It is well known that stone crushers have the potential for huge pollution and unscientific mining for such stone crushers further degrades the environment. Statutory safeguards under the Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 need to be followed and monitored by the statutory regulators," the Bench said.

"Violations, being criminal offence under the law, there is need to take preventive and remedial action, including recovery of compensation on "Polluter Pays" principle for the past violations till illegal activities are stopped," the Green Bench observed.

The Bench constituted a joint Committee comprising Central Pollution Control Board (CPCB) and state PCB officials and asked them to look into the grievances.

If any damage is caused to the environment, the compensation may cover not only the cost of mined material but also the cost of restoration and ecological services forgone forever, with an element of deterrence, the Bench said.

According to the applicant, the said stone crushers are located close to the residential area and the Tawi river. The applicant also alleged that crushers were not following norms while operating.

**ANNEXURE - B (Colly)**







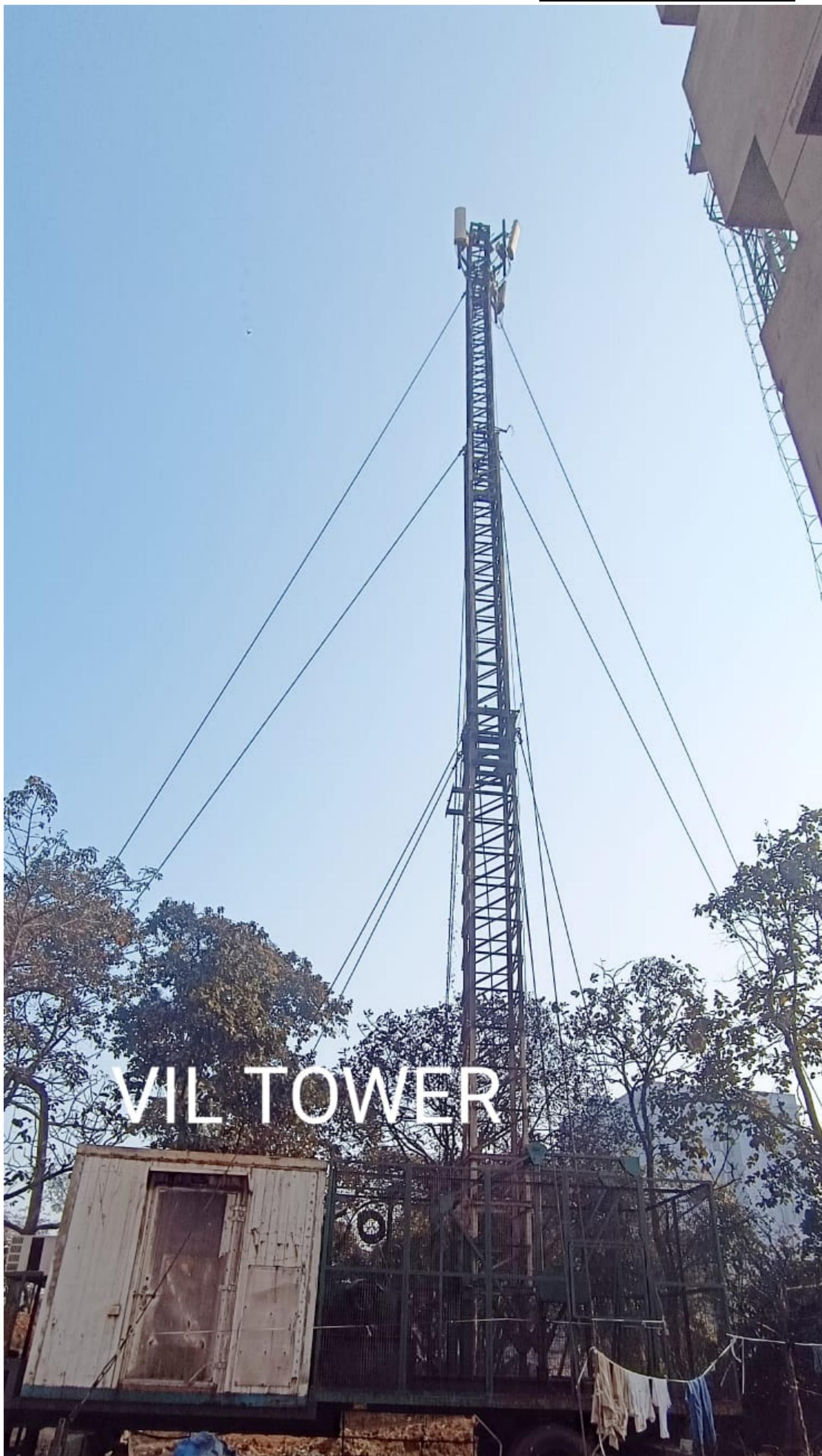
**ANNEXURE - C**



**ANNEXURE - D**



**ANNEXURE - E (Colly)**



VIL TOWER



AIRTEL TOWER



VIL GSM & BTS



BSNL TOWER



AIRTEL TOWER GSM & MICROWAVE



BSNL TOWER GSM & MICROWAVE

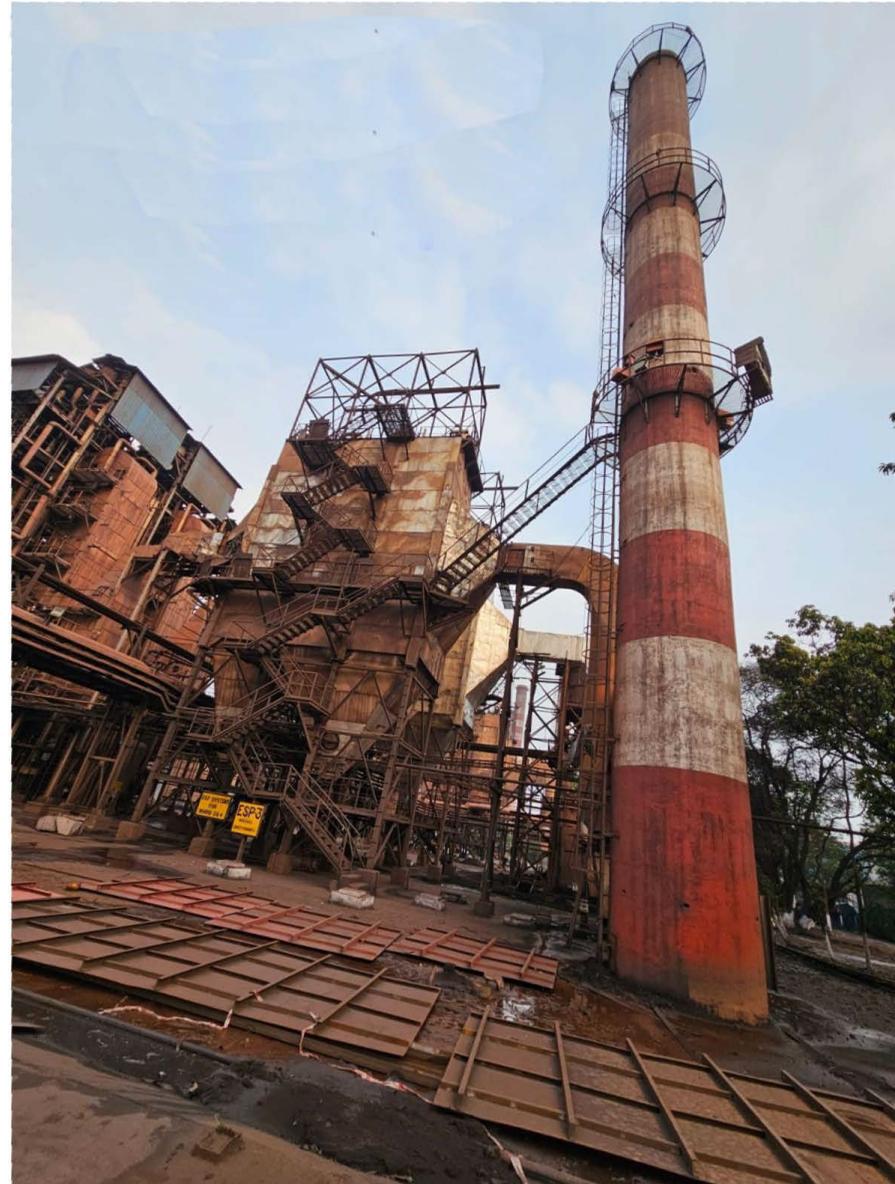


**ANNEXURE - F**

**Photographs of chimneys at Pg. 19 of OA**



**Photographs of chimneys at R-7's plant**



**Photograph of purported view of plant from road at Page 20 of OA**



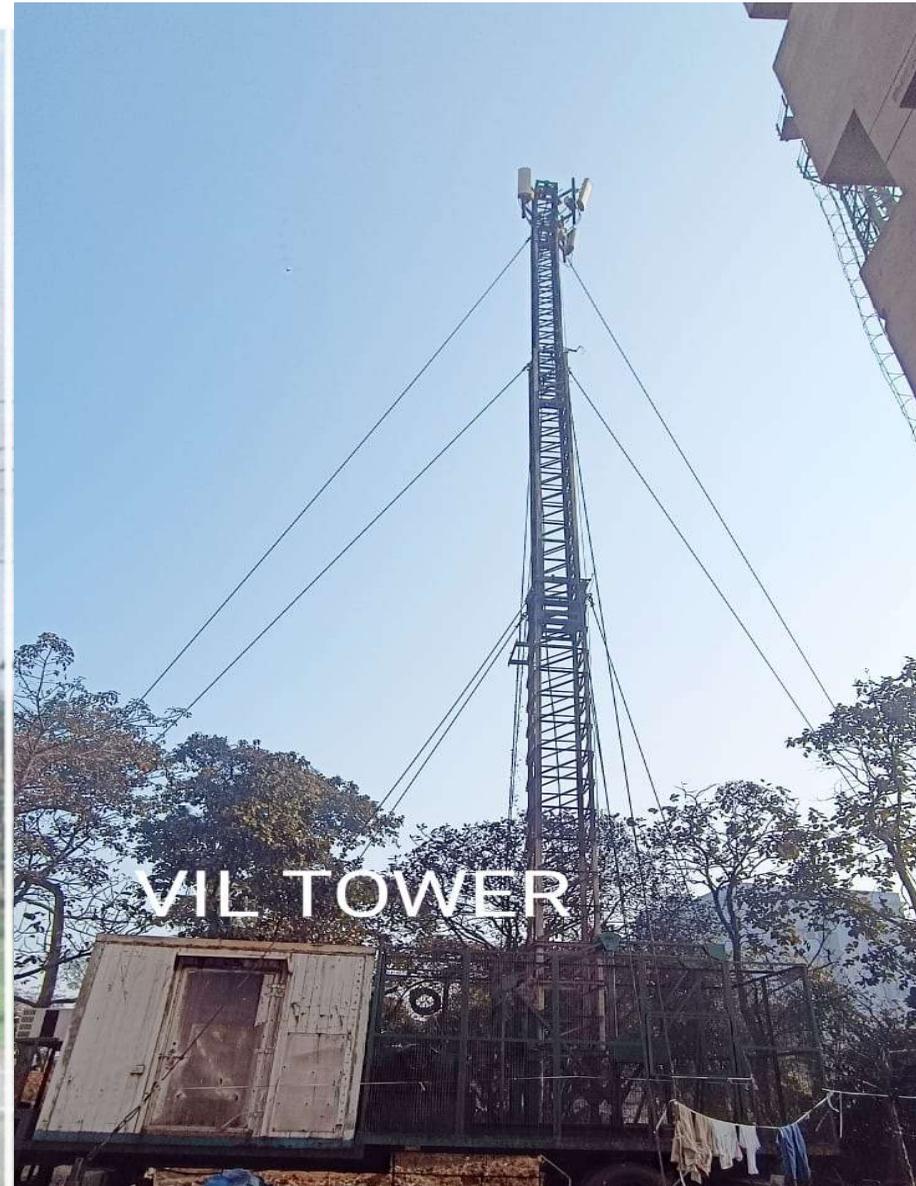
**Actual photograph of view from road of R-7's plant**



**Photograph of telecom tower at Page 21  
of OA**



**Photograph of sample telecom tower at  
R-7's plant**



**Photograph of divider on road with green plantation at Page 21 of OA**



**Photograph of actual divider at the road adjacent to R-7's plant**





Dhananjaya Mishra &lt;mishra.dhananjaya@gmail.com&gt;

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**OA No. 3 / 2024 / EZ [Dasarathi Sethi & Anr. vs. State of Odisha & Ors] | Service of Reply on behalf of R-7**

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**Dhananjaya Mishra** <mishra.dhananjaya@gmail.com>

Wed, Mar 20, 2024 at 4:21 PM

To: "mithubhattacharya86@gmail.com" <mithubhattacharya86@gmail.com>, "kunalDasrathisethi9090@gmail.com" <kunalDasrathisethi9090@gmail.com>, "92subhashree.sahoo@gmail.com" <92subhashree.sahoo@gmail.com>, Sailaza Nandan Das <adv.sailendas@gmail.com>, Dipanjan Ghosh <dpnjngsh0@gmail.com>

Dear Sir / Madam,

Please find attached, by way of advance service, the Reply Affidavit being filed on behalf of R-7 in the captioned matter.

Thanking you.

Yours sincerely,

---

**Dhananjaya Mishra****Advocate-on-Record*****B.A. LL.B. (Hons.) (NALSAR); LL.M. (Cantab)*****Address: C-516, Lower Ground Floor, Defence Colony, New Delhi - 110 024  
(M) +91 88 2600 9686**

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