

**BEFORE THE NATIONAL GREEN TRIBUNAL,
SITTING AT NEW DELHI**

Original Application No.622/2023

Hemant Sharma

.....Applicant

Versus

Narendra Nath Gaur & Others

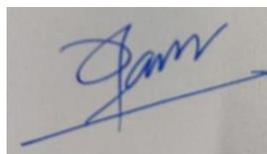
.....Respondents

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Place: CHANDIGARH

Through in person respondent No,2



Date: 16/02/2024

MOHAN LAL GAUR

Flat No. 5501/3, Modern Housing Complex,

Sector 13, Chandigarh – 160101

(Mobile – 8360628931)

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Reply to the application under Section
14 & 15(1)(c) r/w Section 18(1) & (2)
of the National Green Tribunal Act,
2010 by **respondent no.2**

Respectfully Showeth:-

1. That I did not received the notice from the Hon'ble National Green Tribunal in the matter I was informed by the Forest Deptt. that a complaint has been filed by Sh. Hemant Sharma against the answering respondent and others. I had also received an e-mail from some unknown person the matter. After knowing the developments from the forest officials, the answering respondent got the copy of the orders from the internet. Hence, the reply to the above mentioned OA is being filed through e-mail to apprise the true facts before this Hon'ble Tribunal. It is surprising that when Sh. Hemant Sharma has already cut about 300 trees of mango, litchi and chicoo from his piece of land bearing khasra no.32/26/1 in the month of March/April 2023 then what morality Mr. Hemant Sharma (applicant) has to file a complaint/application against the answering respondent and others, before this Honourable Tribunal, Office of Prime Minister, Chief Conservator of Forest, DIG Police, DCP Etc.

2. That the answering respondent no.2 is owner in possession of Agricultural Land comprising 46 Kanal 05 Marla bearing Khasra No.32/26/3 and 10 Marla share in Khasra No.32/26/2, Mauja Garhi

Kotaha, Tehsil Raipur Rani, District Panchkula. In the year 1980-81, the answering respondent being an agricultural graduate had planted approximately 300 plants of Mango, Litchi and Chicoo etc. Subsequently my other two elder brothers namely Sh. Narendra Nath Gaur and Late Sh. Basant Kumar Sharma who were in possession of land bearing khasra no.32/26/4 and 32/26/1 also planted Mango, Litchi and Chicoo trees in their piece of land.

3. That our orchard is situated on the main road leading to Panchkula, Raipur Rani, Naraingarh, Paonta Sahib and Dehradun. With the passage of time vehicular traffic increased manifolds and Poultry Farm and Brick Killen also came up in the nearby area. As a result, the health of the plants started deteriorating and for the last 6 to 7 years the answering respondent was incurring losses, as around 60 plants had dried up and the remaining plants got infested with stem borer, and other types of insects and fungal diseases. The yield of fruit crop fell drastically.

4. That the cost of inputs and labour kept on increasing, the returns from the fruit crops became almost negligible causing heavy losses, so it was decided by answering respondent to carry out some other activity. As December and January is the right time for cutting the trees, so after obtaining permission from the local Village Panchayat, the answering respondent started cutting the trees. After carrying out farm practices like levelling and tilling of land, it was decided to plant Safeda and Poplar Trees in the month of February and March. Intimation in this regard was also given to the Divisional Forest Officers office at Pinjore wherein it was verbally informed that since my land does not attract section 4 of Forest Act, hence no permission is required.

BACKGROUND

1. That after the demise of my revered father Late Sh. Devi Dayal Sharma, vide court order, the land bearing khasra no.32/26, Mauja Garhi Kotaha, Tehsil Raipur Rani, District Panchkula was divided in three equal parts as per Jamabandi/Intakal No. 3846 dated 03.01.2019 among three brothers namely Sh. Narendra Nath Gaur, bearing khasra no.32/26/4, Sh. Basant Kumar Sharma, bearing khasra no.32/26/1 and the answering respondent-Mohan Lal Gaur, bearing khasra no.32/26/3 and 30 marlas land bearing Kasra No, 32/26/2 was left for common Rasta which was contributed equally. After the year 1981 all three brothers planted orchard of mango, litchi, chicoo etc and in the revenue record, the land is shown as '**Bagh**'. Please see **annexure A-1 at page 30 of the OA.**

2. That after the demise of Sh. Basant Kumar Sharma, the owner of khasra no.32/26/1 and 1/3rd share in khasra no.32/26/2 the piece of land was transferred in the names of his legal heirs Sh. Hemant Sharma (son) and Mrs. Divya Sumit Khurana (daughter). A copy of jamabandi/inteqal no.4204 dated 06.10.2021 is enclosed as per annexure R-1. It is evident from the annexure **R-1** that the land bearing khasra no.32/26/1 admiring 46 Kanal 05 Marlas is '**Bagh**' **with mango, lechee and chikko trees.**

3. That in the month of February, 2023 Sh. Hemant Sharma entered into an agreement to sell his piece of land and his share in the common passage. As Sh. Narendra Nath Gaur/ Respondent No.1 in this OA had no other passage to reach his piece of land bearing khasra no.32/26/4 (Please see annexure A-1 at page 32 where the map of the land is enclosed and marked black). Sh. Narendra Nath Gaur persuaded Sh. Hemant Sharma not to sell his share of 10 Marla in the common passage as it will become difficult for him for approach his piece of land. Sh. Hemant Sharma/applicant did not

agree to the request of Sh. Narendra Nath Gaur hence a civil suit no.239 of 2023 was filed in the Court of Civil Judge (Senior Division), Panchkula by Sh. Narendra Nath Gaur

4. That aggrieved by filing of civil suit in Panchkula Court by Sh. Narendra Nath Gaur, Sh. Hemant Sharma/applicant and his wife Mrs. Parul Sharma threatened Sh. Narendra Nath Gaur with dire consequences. When Sh. Narendra Nath Gaur started cutting the old trees from his piece of land bearing khasra no.32/26/4. Sh. Hemant Sharma filed frivolous complaints to the office of Prime Minister of India, Chief Conservator Forest, office of Deputy Commissioner and Police Authorities to harass Sh. Narendra Nath Gaur and answering respondent. It is pertinent to mention here that Sh. Hemant Sharma himself cut about 300 trees of mango, litchi and chicoo in the month of March/April, 2023 as he had entered into an agreement to sell his piece of land in the month of February, 2023. Sh. Hemant Sharma gave a reply to the legal notice sent by counsel on behalf of the purchaser of land Sh. Darshan Bansal & Others on 24.05.2023 wherein SH. Hemant Sharma/applicant has stated that

“I have completed the conditions of the agreement which are required for purpose of execution & registration of the sale deed by way of **cutting the standing trees of plants of fruits** and made property level equal to the ground. There is no garden existing in the property comprises in khasra no.32/26/1 (46 Kanal 05 Marla) and the property is completely lying vacant. Further I got required entry of vacant plain land made in the records of Govt.”

A copy of this reply/notice dated 24.05.2023 sent under registered post to the advocate Sh. Vikram Jain (Counsel of purchaser of land Sh. Darshan Lal Bansal, Nitish Goyal and Ritesh

Jindal) has been enclosed with the reply filed through counsel by respondents (Purchaser of Land) in the civil suit No. 239 of 2023 titled Narender Nath and others versus Hemant Sharma and others in the Hon'ble Court of Dr. Rajini Kaushal Chief Judicial Magistrate, Civil Judge (Sr. Division), Panchkula.

5. That hence, it is evident from the averments mentioned in the above mentioned para No.2 and the copies of inteqal/Jamabandi annexure A-1 enclosed in the OA and annexure R-1 of the reply, that about 300 trees were cut by Sh. Hemant Sharma in the month of March/April, 2023, therefore, he has no moral legal right to file this OA before this Hon'ble Tribunal against respondents.

Reply to the facts stated in the OA

5.1 That the facts and averments mentioned in para are not correct as a land does not measure no.21 acres and khasra no.32/9, 32/10, 32/11, 32/19, 32/23, and 32/24 are not part of the property in question named '**Bagh**'. It is further wrong that there were 2000 green trees as Sh. Hemant Sharma/applicant, complainant had already cut 300 trees from his share of land and remaining about 400 fruit bearing trees were left. It is not correct and true that the cutting of trees by the answering respondent and Sh. Narender Nath Gaur-respondent no.1 is illegal. The necessary required permission was obtained from the concerned authority.

5.2 to 5.5 That the averments and facts mentioned in these paras are wrong and hence denied as the land in question does not attract Section 4 of Forest Act, no permission from the forest officials is required.

6. Grounds:-

Paras A to K. Of the OA. That the averments mentioned in these paras are wrong hence denied. It is pertinent to mention that answering respondent No. 2 The fruit plants had planted by

respondent more than 40 years back for the purpose of earning livelihood and profits. Since the trees had become old, infested with diseases bearing poor yield and were no longer profitable hence, the respondent was forced to adopt some other agricultural activity. No farmer can afford to carry out any activity with losses where there is no support, grant/aid from any institution or Govt. body. In para G there is a reference of a case titled **Green Earth Versus Dy. Commissioner, Kurukshetra** where the Hon'ble Tribunal has passed certain orders. It is pertinent to mention here that the answering respondent's land is private land and answering respondent is free to carry out such agricultural activities which are profitable. Hence, the provisions of National Green Tribunal Act are not applicable which are basically meant for public property, forest land, Jungles etc.

7. Limitation – That the facts stated in this para are not correct fully hence denied to the extent that there are not 2000 trees and land parcel is not of 21 Acre.

Prayer

As a facts stated in the OA are not true and correct moreover, the applicant himself has cut more than 300 trees in the month of march/April, 2023. The relief sought in the prayer clause needs to be denied with heavy penalties.

It is humbly submitted to this Hon'ble Tribunal that Sh. Hemant Sharma/applicant is doing job in USA for the last many years, his wife Mrs. Parul Sharma lives in Panchkula, and working in Govt. Collage Raipur Rani. After the filing of civil suit by Shri Narendra Nath Gaur/ respondent No. 1 against Mr. Hemant Sharma/applicant and Mrs. Parul Sharma in the Court of Civil Judge (Sr. Division), Panchkula due to the dispute of common passage (Rasta) Mrs. Parul Sharma has threatened the respondents with dire consequences and has been running from pillar to post to file

frivolous complaints to various authorities at different levels to harass the respondents. She is working in a Govt. College at Raipur Rani and uses her resources including students to threaten and harass the farm labourer, respondent no.7 Mr. Telu Khan employed by answering respondent no.2. The answering respondent is avoiding even to visit his land with a fear that Mrs. Parul Sharma may enter into a misadventure to harass the answering respondent. The respondent no.3-Mr. Sidharth Gaur, respondent no.4-Ashish Gaur, respondent no.5-Avichal Gaur, respondent no.6-Mrs. Monika Sharma, respondent no.7-Telu Khan are not the owners of land, their names have been mentioned in the OA just to harass. Mrs. Parul Sharma has been taking photos with drones and calling press people to harass the respondents.

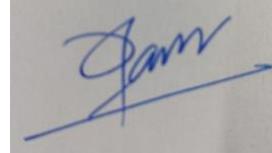
That the applicant-Sh.Hemant Sharma has no love for the Environment, Pollution, ecology etc. Of the area as he himself has cut more than 300 trees recently in the month of March/April, 2023 and this fact has not disclosed in the OA, the OA has only been filed before this Hon'ble Tribunal to harass the respondents. It is humbly prayed to this Hon'ble Tribunal that a very heavy penalty should be imposed on Sh. Hemant Sharma/applicant in order to stop him and his wife-Mrs. Parul Sharma from harassing the respondent no.1-Sh. Narender Nath Gaur who is 80 years old and the answering respondent who is of the age of 74 years. The applicant and his wife has annual income running in crores of rupees and are wasting their money and energy on frivolous complaints, hence needs to be punished with exemplary costs as they have not come before this Hon'ble Tribunal with clean hands. All the facts stated in the OA are irrelevant and falsified with a purpose to harass the respondents.

It is therefore, respectfully prayed the reply to the application filed by the respondent No.2 may kindly be taken on record and the application/OA/Complaint may kindly be dismissed with exemplary cost.

Place: CHANDIGARH

Through in person respondent No,2

Date: 16/02/2024



MOHAN LAL GAUR

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रजिस्टर इंतकाल Annexure R-I

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इन्द्राज जमाबन्दी गुजस्ता या आखरी बाकी इन्तकाल जिसकी तरमीम मतलूब है							इन्द्राज जदीद जो अब कायम किया जाएगा							
नंबर शुमार	नंबर खाता जमाबन्दी सावक	नाम तरफा या चाह	नाम मालिक व विवरण	नाम काशतकार व विवरण	नंबर व नाम खेत व रकबा व किस्म जमीन	मामला या तगान	नंबर खाता जमाबन्दी जदीद	नाम मालिक व विवरण	नाम काशतकार व विवरण	नंबर व नाम खेत व रकबा व किस्म जमीन	मामला या लगान	किस्म या तारीख इंतकाल मय बै जरहन	फीस दाखिला खाज	रिपोर्टपटवारी या तसदीक गिरदावर कानूनगो
4204	खेवट न. शेर सिंह 373/1		बसन्त कुमार पुत्र देवी दयाल पुत्र नत्सू	बदस्तूर	32// 26/1 46-5 कुल			हेमन्त शर्मा पुत्र व दिव्या सुमित खुराना पुत्री	बदस्तूर	32// 26/1 46-5 कुल		विरासत बरूये रपट रोजनामचा		हस्ताक्षर पटवारी 22-10-2021
		वासीदेह			46-5 चाही			बसन्त कुमार पुत्र		46-5 चाही		वाक्याती न. 114		मुकाबला शुद्ध हस्ताक्षर
					0-0 बाग चाही			देवी दयाल		कम अज मरला बाग चाही		दिनांक		हल्का कानूनगो
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										किते 1 46-5 मजरआ				
								हिस्सा मुन्तकिला		क.म.-स. सालम				
4204	खेवट न. शेर सिंह 373/2		बसन्त कुमार पुत्र देवी दयाल पुत्र	बदस्तूर	32// 26/2			हेमन्त शर्मा पुत्र व दिव्या सुमित खुराना	बदस्तूर	32// 26/2				