

**BEFORE THE NATIONAL GREEN TRIBUNAL AT NEW-  
DELHI, BENCH AT PUNE**

**Interim Application No.3/2022**

**In**

**Appeal No. 55/2022**

**APPELLANT :** Shri Deochand Danduji Karemore,  
Aged about 61 years, Occupation  
Business, R/o Bharat Nagar, Nagpur  
Contact No. 8657709040, Email ID  
hiteshgedam22@gmail.com

**-Versus-**

**RESPONDENTS:1.** Ministry of Environment, Forests &  
Climate Change through  
C.B.Tahsildar, AIGF (Central) Office at  
Integrated Regional Office, Ground  
Floor, East Wing, New Secretariat  
Building, Civil Lines, Nagpur, Ph.No.  
0172253133, Email ID apccfcentral-  
ngp-met@gov.in

2. The Principal Secretary (Forests),  
Revenue & Forest Department,



NGT/WZ/PUNE/INWARD/ 287 /20 23

Date 31/03/2023

Sign. AS

*Copy Received  
H.D.Gedam  
A/c. H.D. Gedam  
C.F. Appellant  
20/04/2023*

Office at Hutatma Rajguru Chowk,  
Madam Cama Marg, Mantralaya,  
Mumbai-32, Ph.No. 0722024588,  
Email ID apccfeentral-mum-  
mef@gov.in

3. **Ministry of Environment, Forests & Climate Change**, through Regional Officer, Office at Regional Office (Nagpur), West Central Zone, 104-128, Red Cross Road, Sadar, Nagpur, Ph.No. 0712251019, Email ID rdcz@fsi.nic.in
4. **Maa Umiya Audyogik Vasahat Maryadit**, Nagpur through its Director Shri Jivraj Ratansi Patel, Aged about Major, Occupation Business, R/o Maa Umiya Dham, Mouza Tarodi, Tahsil Kamptee, District Nagpur, Mobile No. 9373210426

**REPLY ON BEHALF OF RESPONDENT NO.4 TO THE APPLICATION FOR CONDONATION OF DELAY IN**

**FILING THE PRESENT APPEAL UNDER SECTION 16E**  
**OF THE NATIONAL GREEN TRIBUNAL ACT, 2012.**

The Respondent No.4 most respectfully begs to submit as under :

1. That, the present application itself is not maintainable one under the provisions of law. That, the Respondent No.4 is a society registered under the Maharashtra Co-operative Societies Act, 1960. That, there is no notice under Section 164 of the M.C.S. Act. That, prior to the present appeal the matter in question already been decided by the various courts and the Appellant also not disclosed what is the status before this Hon'ble Tribunal for challenging the order.

2. That, the present Appellant is a resident of Bharat Nagar, Nagpur and is not a resident of Tarodi or Kapsi and the Tarodi comes under the jurisdiction of Kamptee Tahsil. The present Appellant has filed an application before this Hon'ble Tribunal under the provisions of appeal for condonation of delay. That, the Appellant has not disclosed what is the status before this Hon'ble Tribunal.



3. That, the property in question coming under the jurisdiction within the Government of Maharashtra. That, the property in question is a forest property and does not falls within the purview of Maharashtra Land Revenue Code and there is a special Act.

4. That, the present Appellant without having any legal status has filed an application or complaint before the S.D.O. That, the S.D.O. has rejected the said application and the S.D.O. very specifically alleged that unless and until measurement takes place, boundaries cannot be fixed. That, the present Appellant invoke the Respondent No.5 to take an action. That, the Respondent No.5 cannot take an action which does not comes within the purview of Nistar Patrak under the provisions of Section 161 of the Maharashtra Land Revenue Code and therefore, mere filing a complaint before the S.D.O., the S.D.O. has taken a legal stand as there was no measurement and the measurement and boundaries are not matching. That, thereafter the said person has approached before the Commissioner. That, the Commissioner without perusing the legality have come to the conclusion. That, the matter in question is already subjudice before the Civil Judge, Senior Division, Nagpur and the Civil Judge, Senior Division has already granted stay in favour of the Appellant in respect of taking the action. The order passed by the



Civil Court has not been challenged. The matter in question is subjudice bearing C.S.No. 45/2016. That, inspite of this legal position the present Appellant have preferred an appeal before the Commissioner bearing Appeal No.32/2017-18. The order was also passed. That, being aggrieved against the order the present Appellant also preferred a writ petition before the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur bearing W.P.No.5348/19. That, the Hon'ble High Court consisting of Hon'ble Justice Shri Chandurkar and Smt. Urmila Joshi passed an order on 26/07/2022. As a matter of fact the matter in question does not comes within the jurisdiction of the Collector or Commissioner. However, when the matter in question already been subjudice and reference also have been given and also alleged that Maharashtra Village Panchayat Act and also made a reference of Civil Suit No.45/16 and it was very specifically alleged that the order of the status quo with regard to the same suit property is already passed. It was also alleged that one of the friend of the present Appellant also filed an application under Order 1 Rule 10 and the matter in question is subjudice before the Court. That, inspite of all this legal position the present Appellant has filed present appeal before this Hon'ble Court. That, the order passed by the Court i.e. letter issued by the Conservator of Forest, that it is made clear that the property does not comes within the jurisdiction of the Collector and

NOTARY

Maharashtra Land Revenue Code is not applicable one. However, Forest Act is applicable one and accordingly there are correspondence between the parties. That, the Conservator of Forest i.e. Forest Department issued a letter dated 06/10/2022. That, there is a letter correspondence between the parties and the Forest Department i.e. Ministry of Environment, Forests and Climate Change there is a specific provision under the law and the land in question, the Forest Department has directed in lieu of the said land, the Forest Department is ready to give another land subject to condition that they will not surrender another land and ale deed also has taken place. The land in question already been surrendered by way of purchasing the property by the Respondent No.4 and handed over the said property at the cost of the Respondent No.4. Therefore, the issue in question does not survives.

5. That, the present Appellant having no any legal relevancy with the present matter. However, the order is passed on 13/12/2021 and the present Appellant having full knowledge. That, there is no documentary evidence placed on record that the concerning officer refused to give document. A simple procedural question is that the moment the application is filed, all the Government offices including the Forest Department, Revenue Department, Civil Court, High Court they issuing receipt subject to condition that the payment is made. That, the present application is not maintainable one. That,

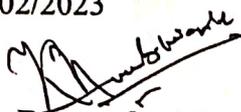


the delay in question as alleged it is not an issue before the Court from the date of the knowledge. That, the Appellant is not having a very high status or is not an officer that the concerned officer has got no time. So, therefore, a new law has been made for a particular person that the moment the order is passed has to be communicated. So, therefore, the excuses presented before the Court having no any substance. That, from 13/12/2021 period of one year and 16 days already been passed and there is no substantial reason given by the party. Therefore, the present application is not maintainable one.

6. However, the Appellant fully aware that when a document in question is placed on record i.e. order passed and various F.I.R. and number of documents placed on record i.e. vide index it has got no any relevancy, therefore, the application deserves to be dismissed with exemplary cost of Rs.50,000/- That, apart from this the property in question have not been purchased and the matter in question is already subjudice before the Civil Judge, Senior Division, Nagpur and reference also has been given. That, Shri Jivraj Ratansi Patel is not holding any status in the society, therefore, the application deserves to be dismissed with cost.

Nagpur

Dated : 27/02/2023



Counsel for Respondent No.4



Respondent No.4



**SOLEMN AFFIRMATION**

I, Shri Jivraj Ratansi Patel, Aged about 70 years, Occupation Retired, R/o C/o Maa Umiya Dham, Mouza Tarodi, Tahsil Kamptee, District Nagpur, do hereby take oath and state on solemn affirmation that, the contents of paras 1 to 6 of the reply are drafted by my counsel as per my instructions. They are read over and explained to me in vernacular by my counsel and I found the same to be true and correct to my personal knowledge and belief. Hence verified and signed at Nagpur on this 27<sup>th</sup> day of February, 2023.

*[Handwritten Signature]*

**DEPONENT**

I know and identify  
the Deponent

NOTARIAL REG.  
ENTRY NO. 2855  
DATE: 16/3/23

*[Handwritten Signature]*

(K.B.AMBILWADE)  
Advocate.

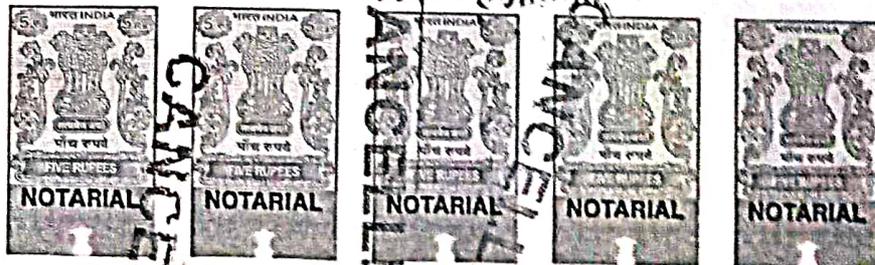
SWORN/SOLEMNLy AFFIRMED  
BY Jivraj Ratansi  
Patel

WHO IS PERSONALLY KNOWN  
TO ME / IDENTIFIED BY Aadv  
K.B. Ambilwade

BEFORE ME THIS THE 16<sup>th</sup>  
DAY OF Mar 23 AT NAGPUR

*[Handwritten Signature]*

SOPHIYA PRAKASH KANEKAR  
NOTARY  
TAH. NAGPUR,  
NAGPUR (M.S.) INDIA



**BEFORE THE NATIONAL GREEN TRIBUNAL AT NEW-  
DELHI, BENCH AT PUNE**

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Building, Civil Lines, Nagpur, Ph.No.  
0172253133, Email ID apccfecentral-  
ngp-met@gov.in

2. The Principal Secretary (Forests),  
Revenue & Forest Department,

*Copy Received*  
*[Signature]*  
*At. v. H. D. J. G. J. G.*  
*C. F. Appellant*  
*10/04/2022*



Office at Hutatma Rajguru Chowk,  
Madam Cama Marg, Mantralaya,  
Mumbai-32, Ph.No. 0722024588,  
Email ID apccfcentral-mum-  
mef@gov.in

3. **Ministry of Environment, Forests & Climate Change**, through Regional Officer, Office at Regional Office (Nagpur), West Central Zone, 104-128, Red Cross Road, Sadar, Nagpur, Ph.No. 0712251019, Email ID rdcz@fsi.nic.in
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**OBJECTION ON BEHALF OF RESPONDENT NO.4 IN RESPECT OF MAINTAINABILITY OF THE APPEAL FILED BY THE APPELLANT.**



The Respondent No.4 most respectfully begs to submit as under :

1. That, the present appeal itself is not maintainable one under the provisions of law. That, even otherwise this is not a Court where a Public Interest Litigation can be heard or decided. That, the Appellant also has not disclosed what is the status. That, the Appellant is a resident of Bharat Nagar, Nagpur, he is not residing within the jurisdiction of the suit property either of Wardha or Nagpur, nor he belongs to Tahsil Kamptee. That, the Appellant also has not disclosed how the property in question is relating to him. That, the matter in question is already subjudice before the Civil Court so far as objection raised in respect of encroachment, as alleged.

2. That, the property in question i.e. the property dealing in respect of Wardha property as well as Nagpur property, that deals with the property in question very specifically disclosed in respect of the property of Gram Panchayat, Tarodi, bearing Khasra No.88. That, the matter in question has already been decided by the S.D.O. holding a power of Collector. The said matter was challenged before the Commissioner and it is already on record as a list of annexures bearing Annexure No.E. That, the Commissioner of Nagpur i.e.



Additional Commissioner, Nagpur also have decided. That, being aggrieved against the said order the present Appellant preferred a writ petition before the Hon'ble High Court which is already on record vide page 59 i.e. Annexure No. J. That, Hon'ble High Court also have decided the matter in question. That, once the matter in question have been decided by the Hon'ble High Court and the matter has been remanded to the S.D.O., Mouda.

3. That, the civil suit also filed and the Civil Court has already entertained the application under Order 39 Rules 1 & 2 of the C.P.C. and status quo was granted.

4. That, the present Appellant has placed on record various documents i.e. impugned order of the Hon'ble High Court (pages 62-64) and there is no Special Leave Petition filed by the present Appellant. Therefore, the present appeal is not maintainable one.

5. That, apart from this there are various complaints have been lodged and the said complaints have not been lodged in a personal capacity by the present Appellant on page 90 is a F.I.R. lodged by one Shri Ashok Gulabrao Tandulkar under Section 447, 420 read with Section 134 of the I.P.C. The



aforesaid matter is also subjudice before the Court. The matter in question is subjudice before the Court.

6. That, the matter in question have not looked by the concerning Court. That, the property in question is owned by Forest Department and Forest Department have not taken the cognizance as the Forest Department fully aware that on the property in question have not been made an encroachment. That, as per the provisions of Maharashtra Land Revenue Code a Nistar Patrak is there. The Collector never delegated any power to the Gram Panchayat, Tarodi to look after the property in question. That, the property in question also does not comes under the provisions of Nistar Patrak. That, there are various types of properties i.e. the property which is owned by the Collector i.e. Government and delegating a power to the Gram Panchayat is one aspect. Second aspect is that the property owned by the Government looking after by the Government itself and no delegation of power. Third aspect is a property of Forest Department. That, the Forest Act is different as well as Maharashtra Land Revenue Code is also different, Gram Panchayat Act is also different one and knowing fully when how the Appellant is having a legal necessity or how the Appellant is having a legal and vested interest to conduct Appeal, when the present Appellant has got no legal status and the Appellant



himself has made a statement at Annexure No.N is a Conservator of Forest pages 70 to 72. The present Appellant has approached before the Tahsildar, Collector and so on.

7. That, the Appellant also aware and also annexed Annexure No.K and other documents which disclosing that Appellant has not disclosed how the Appellant has got a vested interest or legal vested interest and how the Appellant is legally affected that also has not been disclosed. That, the document in question is already on record.

8. That, even otherwise the provisions of the Forest Act is very specific one, i.e. Indian Forest Act, 1927. That, a recent amendment have taken place under the name and style as National Green Tribunal Act, 2010. That, the Appellant also not disclosed how the Appellant have been legally aggrieved against the concerning order when Hon'ble High Court passed the order, whether this Court has got a power or whether the Appellant having any legal status to challenge the order and the same has not been disclosed in the appeal. That, the Appellant also not disclosed how the Appellant have been aggrieved and against which order and why he is aggrieved and how his legal interest have been infringed has not been disclosed, therefore, the



Appellant needs to be dismissed with exemplary cost of Rs.50,000/-.

Nagpur

Dated : 06/03/2023

  
Counsel for Respondent No.4

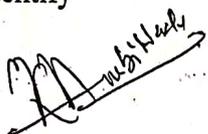
  
Respondent No.4

**SOLEMN AFFIRMATION**

I, Shri Jivraj Ratansi Patel, Aged about 70 years, Occupation Retired, R/o C/o Maa Umiya Dham, Mouza Tarodi, Tahsil Kamptee, District Nagpur, do hereby take oath and state on solemn affirmation that, the contents of paras 1 to 8 of the objection are drafted by my counsel as per my instructions. They are read over and explained to me in vernacular by my counsel and I found the same to be true and correct to my personal knowledge and belief. Hence verified and signed at Nagpur on this 06<sup>th</sup> day of March, 2023.

**DEPONENT**

I know and identify  
the Deponent

  
(K.B.AMBILWADE)

Advocate.



NOTARIAL REG. 2954  
ENTRY NO. \_\_\_\_\_  
DATE 18/3/23



SWORN/SOLEMNLy AFFIRMED  
BY Jirraj Ratanji  
Batel

WHO IS PERSONALLY/KNOWN  
TO ME / IDENTIFIED BY. Adm  
K.B. Ambilwadkar  
BEFORE ME THIS THE 16<sup>th</sup>  
DAY OF Mar 23 AT NAGPUR

Sophiya  
16/3/23  
SOPHIYA PRAKASH KANEKAR.  
NOTARY  
TAH. NAGPUR,  
NAGPUR (M.S.) INDIA

