



**BEFORE THE HON'BLE NATIONAL GREEN  
TRIBUNAL (WESTERN ZONE) PUNE AT PUNE**

**ORIGINAL APPLICATION NO. 45/2021 (WZ)**

**SYAMANTAK TRUST**

**.....APPLICANT**

**VS**

**STATE OF MAHARASHTRA**

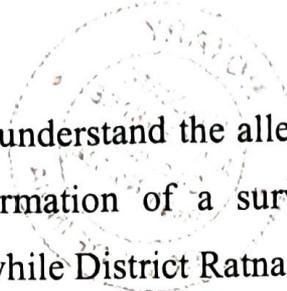
**AND ORS**

**.... RESPONDENT**

**MOST RESPECTFULLY SHOWETH:**

1) It is submitted that; the present Respondent No. 8 was impleaded by the Applicant for alleged environmental violation. As per the case of the Applicant the Respondent No. 8 has reclaimed land and excavated the land bearing S. No. 96 H. No. ¾ situated at village Dhamapur Tal. Malavan, Dist. Sindhudurg. The Respondent NO. 8 denies the allegation

*(Handwritten signature)*



levelled against him. To understand the alleged violation, one must understand the formation of a survey settlement in Sindhudurg district erst while District Ratnagiri.



## 2) Formation of a Survey settlement

It is submitted that, while looking at the case in hand one must understand the survey system in the district of Ratnagiri and Sindhudurg (old Ratnagiri). As per the *Maharashtra Land Revenue Code, 1966* written by A. K. Gupte and S. D. Dighe 1994 edition on page no. 2 survey system in Konkan is explained. Copy of page is annexed at **Annexure-A**

1 The para reads as,



“.....The tract was different from that of the Deccan. Hence Deccan experience of survey, and survey numbers was not useful. In Konkan, each rice and garden patch separately cultivated was formed into a pot number. Similarly, in the absence of the regular gaothans in the Konkan, land surrounding houses was also cultivated. Such lands were formed in Pardi munbers and varkas lands were formed into falani tukadas.”



*(Handwritten signature)*

In Konkan region there is no concept of *Gavathan* like in the Deccan region. But the fields in the Konkan region are cultivated near the house and it is referred as *Parade*. In the

Deccan region people leaves in Gavathan area which is separated from their paddy fields. But the situation in Konkan is different peoples resides by constructing residential houses in the fields itself therefore the concept of falani no. is unknown to the rest of Maharashtra. The falani no means the lands covered under Pot kharaba. The said system was in existence till independence of India. After independence the scheme of record of right was introduced in the Sindhudurg District. In the said record of rights falani No. were merged in in pot hissa number. From the above observation it makes clear that farmer form Sindhudurg resides in his paddy field. This fact can assess from the gat book map of S. No. 96, Hiss No. ¾. In the said map location of the house is shown and so also the location of a well was also shown in the said map. The scheme of introduction of record of right was introduced in the Sindhudurg district in year 1956. From the said map it is crystal clear that a house and a well is in existence since prior to 1958. In the land parcel of S.No. 96, H. No. 3/14 there is a house belonging to one Sumati Laxman Rane. She inherited the same from her father. The said house is their ancestral home. And rest of the land was used by the forefathers of the original land owner for purpose of cultivation. The Said land was never part of Dhamapur lake.

**3) The object of observing blue line or red line along with lake, river.**

The human race survived on this planet only because our forefather has quality of a keen observations. The forefather of above mentioned Sumati Laxman Rane constructed the said house only because at no point time water of flood has ever reached up to the house in the aforesaid survey number. The object of blue line or red line is mainly to not to disturbed the land within the red and blue line in order to secure the eco system as well as no harm to be caused for human dwelling. The said land admittedly used by the land owner for cultivation purpose. In the 7/12 extract of aforesaid land in the "Pik Pani" column shows that the land was used for cultivation of rice. Copy of 7/12 extract is annexed at **Annexure-A2**. The agricultural activity includes ploughing, sowing, irrigation weeding and harvesting. In the said activity for keeping the land fertile agriculturist spread alluvial soil in their field and also burn stubble. In the aforesaid land and also agriculturist near by the said land used to sow young saplings of rice locally called "Tarava" in the month of May of every year and pluck the said *Tarava* in the month of June. In the old days' village namely Kalase Dhamapur Pendur which are adjacent to the Dhamapur lake which were known as "*Tarava agar*".



#### 4) Factual Matrix

That the aforesaid land was purchased by the Respondent No. 8 in the year 2016 from the original landlord. That the well situated was used by the people residing in the Mahajanwadi of

Dhamapur. Though the well belonged to the landlord they allowed to fetch the water to public. In short, the said well-used as public well. It is common practice people residing in Mahajanwadi to remove alluvial soli which is collected in the said well after 5 to 6 years. During the laps of time the persons residing in the Mahajanwadi dug their own wells. So, the use of well situated in the aforesaid land was reduced. The original landlord made an oral gift of said well and land beneath it in favour of people from Mahajanwadi. Copy of map of land records department showing the well is annexed at **Annexure-A 3**. As the people from Mahajanwadi decided to operate pipeline waterline scheme. So, the people from the Mahajanwadi removed the alluvial soil from the said well and kept the hip of said soil near by the said well. In fact, the alluvial soli are a fertile soil. So Respondent No. 8 spread the same soil in the aforesaid field.

5) The Respondent No. 8 is agriculturist person he does agricultural activities as per the knowledge inherited from generation to generation. In the aforesaid field and land near by the aforesaid field no authenticated survey has been conducted by the irrigation department. The map so called relied by the Applicant can not be accepted in evidence as per the Section 83 of Indian Evidence Act.

6) No government authority had demarcated the High Flood Line for the Dhamapur lake. So, it was impossible for the

layman like the Respondent No. 8 to know the high flood lines of the same lake.

7) That the order quoted by the Applicant in the para 30 passed by the Tahasildar, Malavan is set aside by the Subdivisional officer, Kudal. Being aggrieved by the order of the Tahasildar, Malavan the Respondent No. 8 filed an appeal before the Subdivisional officer, Kudal. The said appeal of the Respondent No. 8 was accepted by the Subdivisional officer, Kudal and the order of the Tahasildar, Malavan dated 27/09/2018 was set aside. Copy of intimation of said order is annexed at **Annexure-A 4**

6) The Respondent No. 8 is a law-abiding citizen. The Respondent No.8 express his heartfelt apology for his act. After the complaint of the present Applicant the irrigation authority removed old stony facing. So, the application against the Respondent No. 8 has become infructuous.

**Kudal**

**Date:** 01/02/2023

  
(Yogesh Manohar Rawool)

**Respondent No. 8**

### Verification

I, Yogesh Manohar Rawool S/o Manohar Rawool, Age. 47, Occ. Business, R/o At and Post Kalase, Tal.



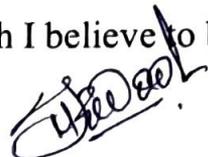


Malavan, Dist. Sindhudurg-4166005 do hereby solemnly affirm as under;

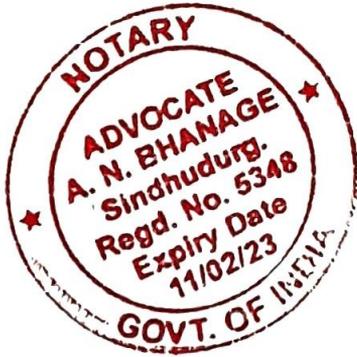
That the contents of the above Affidavit are true and correct to the best of my knowledge and/or based on information, and/or the contents are based on the legal submission and /or inference of fact, which I believe to be true.

Kudal

Date: 01/02/23

  
 श्रीकेश. आबाशुक्ति ने .  
 7387 98944197  
 (Yogesh Manohar Rawool)

Respondent No. 8



  
 SIGNED & EXECUTED  
 BEFORE ME  
 AVADHUT BHANAGE  
 REGD. NO. 139 DATE 01/02/2023



NOTARY  
 SIGNED & EXECUTED  
 BEFORE ME  
 AVADHUT BHANAGE  
 REGD. NO. 139 DATE 01/02/2023

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) PUNE AT PUNE

ORIGINAL APPLICATION NO. 45/2021 (WZ)

SYAMANTAK TRUST

.....APPLICANT

VS

STATE OF MAHARASHTRA

AND ORS

.... RESPONDENT

Affidavit

I, Yogesh Manohar Rawool S/o Manohar Rawool, Age. 47, Occ. Business, R/o At and Post Kalase, Tal. Malavan, Dist. Sindhudurg-4166005 do hereby solemnly affirm as under;

That the contains of the accompanying reply are true and correct and nothing material has been concealed therefrom.

Kudal

Date: 01/02/2023

(Yogesh Manohar Rawool)

Verification

Verified on this 01 of 02 2023 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed.

Kudal

Date: 01/02/2023

(Yogesh Manohar Rawool)



SIGNED & EXECUTED  
BEFORE ME  
AVADHUT BHANAGE  
REGD. NO. 139 DATE 01/02/2023

the other. The original and Revisional surveys were concluded and the Survey Dept. was abolished in 1901. The function of future settlement was to revise the rates only. Further Land Records Dept. was created to maintain the survey records upto date. There is, therefore, no large scale survey now, except the Pot Hissa survey after the introduction of Records of Rights in 1913. Similarly, survey of individual Inam villages was also undertaken for the purpose of introducing Record of Rights and Settlement.

**Evolution of Pot-Number :-** As the original surveys were extended to Konkan and Gujarat, various new problems developed. The tract was different from that of Deccan. Hence Deccan experience of survey, and survey numbers was not useful. In Konkan, each rice and garden patch separately cultivated was formed into a Pot-number. Similarly in the absence of regular gaothans in the Konkan, land surrounding houses was also cultivated. Such lands were formed in Pardi numbers and Varkas lands were formed into Falni Tukadas.

**Traverse system (survey maps) :-** This system was evolved for construction of accurate village maps, Taluka and District Maps. (1864) (The drawings of maps were so excellent that they won a prize in the International Exhibition at Vienna Congress in 1882).

**History of Land Revenue Legislations**

- (1) Survey and Settlement Act, 1865
- (2) Survey and Settlement (Amending) Act, 1868
- (3) The Bombay Land Revenue Code (1879)
- (4) The Bombay Land Revenue (Amending), Code 1913
- (5) Bombay Land Revenue (Amending), Code 1939

**Revenue Assessment and the peasantry :-** There were many instances of agitations of peasants when the assessment of the revenue on land was excessive. For example during 1875 period of 1929, eruption of peasants revolted or at Second Revision settlement of 1929, eruption of peasants for Bardoli and Charoshi Talukas of Gujarat. (The settlement was prepared by Mr. Jayakar and Anderson.) Due to the pressure of the movement, Govt. was forced to suspend the second revision settlement.

After these developments, the Land Revenue Code was amended in 1939 and standard rates were determined for the Taluka and Talukas were divided into groups. For classification of groups, 14 factors were decided for the purpose of valuation. For enhancement of assessment, certain limitation was placed for Taluka and villages, survey numbers or sub-divisions.

**Summary :-** From various declarations in Regulations and elsewhere, during British Imperialism, it can be summarised that the British Govt. claimed to succeed to the *de-facto* position of the preceding rulers to use the position as a *locus standi* for re-distributing, conferring and recognising rights on new basis. The Govt. recognised some rights in private individuals and retained certain necessary rights. The power to distribute or dispose of all lands, titles to lands in favour of individuals or communities that it deemed entitled. It retained the right of the State to all waste land but consideration was given to all possible right either of property or of uses that might exist in such lands when proposed to be sold or granted away. These rights Govt. exercised for public benefit, either leasing or selling land to the cultivators or to the capitalists for special

अनितालडी हद्द कायम मोर्चे 389 १४७६ च्या

२१/५/२०१४ च्या

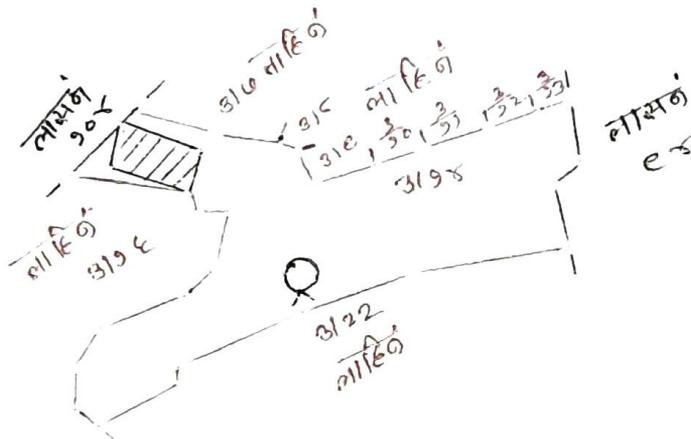
दावापत्र

मालका - मालका  
जिल्हा - जिल्हा

ए छोट वसन कारणापुरती ठारा

# Annexure A-2

स.ने. ६६  
३१७४



क्षेत्र ११.१०००

नयार कारदार *[Signature]*

JUN 2018



**परी म**

*[Signature]*

मुख्यालय सहाय्यक  
उपअधिकायक भूमि अभिलेख मालका  
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अहवाल दिनांक : 24/11/2022

## Annexure A-3

महाराष्ट्र शासन

गाव नमुना सात ( अधिकार अभिलेख पत्रक )

[ महाराष्ट्र जमीन महसूल अधिकार अभिलेख आणि नोंदवह्या ( तयार करणे व सुस्थितीत ठेवणे ) नियम, १९७१ यातील नियम ३.५.६ आणि ७ ]



10917497109

गाव :- धामापूर ( 566595 )

तालुका :- मालवण

जिल्हा :- सिंधुदुर्ग

ULPIN : 10917497109

भूमापन क्रमांक व उपविभाग : 96/3/14

भू-धारणा पध्दती : भोगवटादार वर्ग -1

शेताचे स्थानिक नाव :

क्षेत्र, एकक व आकारणी	खाते क्र.	भोगवटादाराचे नांव	क्षेत्र	आकार	पो.ख.	फे.फा.	कुळ, खंड व इतर अधिकार
क्षेत्राचे एकक हे.आर.चौ.मी.	1358	सुमती लक्ष्मण राजे	0.06.40	1.00	0.00.50	(3617)	कुळाचे नाव व खंड
अ) लागवड योग्य क्षेत्र	1568	योगेश मनोहर राऊळ	0.06.00			(6289)	इतर अधिकार
जिरायत	0.12.40						इतर
बागायत	-						तुकडा ( 2107 )
एकुण ला.यो.	0.12.40						बाजा - सहकारी सोसायटी इकरार
क्षेत्र							दिनांक 01/08/2018 रोजी श्री.सातेरी
ब) पोट-खराब क्षेत्र							वि.का.स.से.सो.लि.काळसे चा योगेश मनोहर
(लागवड अयोग्य)							राऊळ यांच्या नावे र.रु.300000/- कर्ज. ( 6564 )
वर्ग (अ)	0.00.50						प्रलंबित फेरफार : नाही.
वर्ग (ब)	-						शेवटचा फेरफार क्रमांक : 6650 व दिनांक :
एकुण पो.ख.	0.00.50						06/06/2020
एकुण क्षेत्र	0.12.90						
(अ+ब)							
आकारणी	1.00						
जूडी किंवा विशेष	-						
आकारणी							
जुने फेरफार क्र.	( 3617 ) ( 6289 ) ( 6396 ) ( 6650 )						सीमा आणि भूमापन चिन्ह :

गाव नमुना बारा ( पिकांची नोंदवही )

[ महाराष्ट्र जमीन महसूल अधिकार अभिलेख आणि नोंदवह्या ( तयार करणे व सुस्थितीत ठेवणे ) नियम, १९७१ यातील नियम २९ ]

गाव :- धामापूर ( 566595 )

तालुका :- मालवण

जिल्हा :- सिंधुदुर्ग

भूमापन क्रमांक व उपविभाग : 96/3/14

पिकाखालील क्षेत्राचा तपशील								लागवडीसाठी उपलब्ध नसलेली जमीन	शेरा
वर्ष	हंगाम	खाता क्रमांक	पिकाचा प्रकार	पिकाचे नाव	जल सिंचित	अजल सिंचित	जल सिंचनाचे साधन	स्वरूप	क्षेत्र
(१)	(२)	(३)	(४)	(५)	(६)	(७)	(८)	(९)	(१०)
					हे.आर. चौ.मी	हे.आर. चौ.मी			हे.आर. चौ.मी
2020-21	खरीप		निभळ	भात		0.1240			

टीप : \* सदरची नोंद मोबाइल ॲप द्वारे घेणेत आलेली आहे

"या प्रमाणित प्रतीसाठी फी म्हणून १५/- रुपये मिळाले."  
दिनांक :- 24/11/2022  
सांकेतिक क्रमांक :- 2733000404138600001120221308

( नाव :- सुहास कल्याणराव थोरात )  
तलाठी साह्या :- धामापूरता :- मालवण जि :- सिंधुदुर्ग

तलाठी धामापूर  
बा. मालवण जि. सिंधुदुर्ग

डॉ.विकास सुर्यवंशी, उपविभागीय अधिकारी कुडाळ यांचे न्यायालयात

गौणखनिज अपिल क्र.20/2018

✓ श्री.योगेश मनोहर राऊळ, रा.काळसे ता.मालवण जि. सिंधुदुर्ग	विरुद्ध	अपिलार्थी  सामनेवाले
महाराष्ट्र शासन तर्फे तहसिलदार मालवण, तहसिलदार कार्यालय मालवण.		

विषय:- गौणखनिज अपिल क्र.20/2018 च्या निकालाबाबत..

तहसिलदार मालवण यांचेकडील ओदश क्र.महसूल/गौण/अ.वाह./एसआर-28/2018 दि. 27.09.2018 रोजीच्या आदेशा ने व्यथित होऊन सदरचे अपिल दाखल केलेले आहे. त्यामध्ये खालील प्रमाणे आदेश पारित करण्यात आला आहे.

निकालाची समज

- 1) अपिल मान्य करण्यात येत आहे.
- 2) तहसिलदार मालवण यांचेकडील आदेश क्र.महसूल/गौण/अ.उत्ख/एसआर.28/2018 दि. 27.09.2018 रोजीचा आदेश रद्द करणेत येत आहे.
- 3) खर्चाबाबत आदेश नाहीत.
- 4) निर्णय उभयपक्षकारांना कळविणेत यावा.

ठिकाण :- कुडाळ  
 दिनांक :- 04.09.2019

  
 (डॉ.विकास सुर्यवंशी)  
 उपविभागीय अधिकारी  
 (महसूल) कुडाळ

प्रत - तहसिलदार मालवण यांजकडे माहिती व आवश्यकत्या कार्यवाहीसाठी रवाना.