

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**INDEX
IN
RESPONSE AFFIDAVIT
IN
O.A. No. 1038/2024**

IN THE MATTER OF:

Hardeep Sharma

...Applicant

Versus

State of Uttarakhand & Ors.

...Respondents

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PLACE: NEW DELHI

DATE: 04.04.2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

RESPONSE AFFIDAVIT

IN

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IN THE MATTER OF:

Hardeep Sharma

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Versus

State of Uttarakhand & Ors.

...Respondents

**RESPONSE AFFIDAVIT ON BEHALF OF THE CHIEF SECRETARY,
GOVERNMENT OF UTTARAKHAND.**

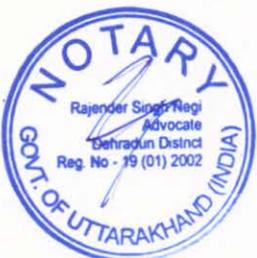


Affidavit of Kahkashan Naseem (Female), aged about 44 years D/o Sh. A.S. Ansari, presently posted as Additional Secretary, Forest and Environment, Government of Uttarakhand, Dehradun.


(Deponent)

I, the above name deponent, do hereby solemnly affirm and stated as hereunder:

1. That the deponent is presently posted as Additional Secretary, Forest and Environment, Government of Uttarakhand, Dehradun. This Hon'ble Tribunal vide its Order dated 24.02.2025, has directed the Chief Secretary to file the present affidavit in the above captioned matter as such she is

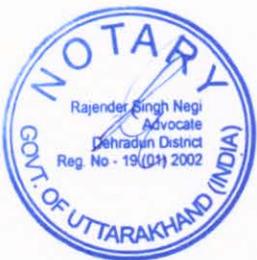


fully conversant with the facts of the case and competent to swear the present Affidavit.

2. That the present matter relates to the allegations of cutting down more than 600 trees in Village Chandpur, Pratapur of District Uddham Singh Nagar wherein the permission was granted for cutting down only 150 trees.
3. That it is submitted that the aforesaid subject matter was also dealt with by this Hon'ble Tribunal in **O.A. No. 147 of 2024** titled as "**Hardeep Sharma v. Ramesh Chandra Arya**" wherein the factual development took place as under:
 - a. That Shri Manish Gupta, Shri Naresh Gupta, both residents of village Chandpur Tehsil Kashipur, were given consent by the Chief Horticulture Officer, Uddham Singh Nagar to fell 150 fruit trees by way of the following letters:

| S.No. | Letter No. | Species of Trees | No. of Trees |
|-------|--------------------------|------------------|--------------|
| 1. | 2067 dated 19.01.2023 | Mango | 39 |
| 2. | 2068 dated 19.01.2023 | Mango | 44 |
| 3. | 269 dated 19.01.2023 | Litchi | 22 |
| 4. | 2179 dated 06.02.2023 | Mango | 45 |
| | | Total | 150 |

- b. That on scrutinizing the complaint of prohibited felling of fruit trees, 88 additional trees were found to have been felled without consent. On which, the Tarai West Forest Division Ramnagar, taking departmental



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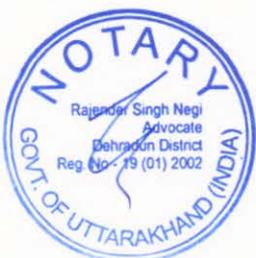
action u/s 4 & 10 of the Uttar Pradesh Protection of Trees in Rural and Hill Areas Act 1976 (“UP Trees Act”), collected Rs. 4,40,000/- (Rupees Four Lakh Forty Thousand Only) as compensation (at the rate of Rs. 5000/- per tree) and deposited it in the treasury.

- c. That in relation to the said case, the Applicant herein filed O.A No. 147/2024 case titled ‘*Hardeep Sharma Vs. Ramesh Chandra Arya*’ before this Hon’ble Tribunal. The said case was heard by this Hon’ble Tribunal and dispose the said case on 04.12.2024 with certain observations and the following main directions:

“87. *Since the issue now has crystallized in this matter with regard to Environmental Compensation leviable from persons responsible for illegal felling of trees of land in question and in exercise of powers to issue directions, UKPCB is empowered to implement 'Polluter Pays' principle by issuing directions for payment of Environmental Compensation, we find it appropriate to permit UKPCB to proceed in the matter for computation and assessment of environmental compensation for illegal felling of trees and recover same from violators but before passing any final order in this regard, adequate opportunity of hearing to all stakeholders shall be provided by UKPCB in accordance with law. This exercise shall be completed within two months and a compliance report shall be filed by 15.02.2025 with Registrar General of this Tribunal. If any further order is required, Registrar General shall place the matter before appropriate Bench.*

88. *We also direct that amount of environmental compensation realized/recovered by UKPCB shall be utilized for remediation /rejuvenation/ restoration of damaged environment in the area in question in the light of a Restoration Plan which shall be prepared by a Joint Committee comprising Divisional Forest Officer, Udham Singh Nagar; UKPCB; Central Pollution Control Board; and District Magistrate, Udham Singh Nagar. District Magistrate, Udham Singh Nagar shall be Nodal Authority for this purpose.*

89. *Plan shall be prepared by above Committee within one month and executed within two months after realization of environmental*



compensation from violators. A Compliance Report shall be submitted in next 15 days with Registrar General of this Tribunal, who, if finds that any further order is required, shall place the matter before appropriate Bench.

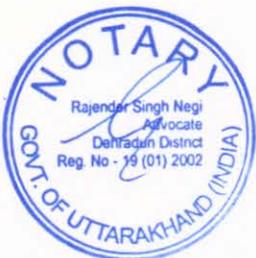
90. *With above directions, this Original Application is disposed of."*

Copy of the Judgment/Order dated 04.12.2024 passed by this Hon'ble Tribunal in O.A. 147/2024 is being annexed and marked herewith as **ANNEXURE-1.**

4. That in compliance to the above said Order and in order to recover the compensation amount, the Sub Divisional Forest Officer, Jaspur had sent letter dated 28.02.2025 to the accused persons Mr. Sudhir Gupta and Mr. Nakul Gupta to deposit compensation for the said 176 fallen trees. In continuation of the above, Forest Officer, Kashipur Range has informed vide his letter dated 06.03.2025 bearing letter number 362/29-1 that compensation amount of Rs. 2,95,000/- (Rupees Two Lakh Ninety-Five Thousand Only) for 59 trees against 176 trees registered in forest case No. 03/Kashipur/2024-2025 has been deposited through E-3 no. 373473/3434 dated 05.03.2025 through representative Shri Satyam Agarwal, presently resident of Kashipur. And for the remaining 117 trees, Siddhant Goyal informed that such number of trees have been replanted at other places, which are present in healthy condition thus, compensation should not be taken against the said 117 trees.
5. That it is submitted that the accused persons Mr. Sudhir Gupta and Mr. Nukul Gupta without taking any permission or intimation to any authority for shifting of trees, have shifted/relocated the trees. Additionally, it is to be noted that the accused person had only taken permission for cutting down 150 trees whereas, 88 additional trees were cut down by the individuals in contravention of Section 4 of the UP Trees Act and therefore, the accused is liable to pay compensation for a total of 176 trees.



6. That even it is assumed, that the out of the 176 trees, 117 trees had been shifted as alleged and compensation for 59 trees have been paid, such alleged shifting of trees is not in accordance with the provisions of UP Trees Act because the provisions of the UP Trees Act does not provide for any kind of shifting of trees. Therefore, the demand of compensation for the remaining 117 trees was again reiterated and communicated by the Sub-Divisional Officer, Jaspur to the accused Mr. Sudhir Gupta and Mr. Nukul Gupta vide its letter dated 29.03.2025 bearing number 360/29-3. Copy of the said letter dated 29.03.2025 is annexed as **ANNEXURE-2**.
7. That the accused Mr. Sudhir Gupta and Mr. Nukul Gupta have not paid the compensation amount for the 117 trees till date since registration of case No. 03/Kashi/2024-25 dated 21.05.2024. Thus, the Divisional Forest Officer, Tarai West Forest Division, Ramnagar vide his letter dated 02.04.2025, requested the District Magistrate, Uddham Singh Nagar i.e. Respondent No. 4 to execute the recovery proceedings of compensation amounting to Rs. 5,85,000/- (Rupees Five Lakhs Eighty-Five Thousand Only) for the 117 trees from the accused persons. Copy of the letter dated 02.04.2025 sent by is annexed as **ANNEXURE-3**.
8. That the deponent is bound to act in accordance with the provisions provided in law and to ensure the compliance of the directions passed by the Hon'ble Law Courts in letter and spirit. Further, the deponent undertakes to comply with any further directions that this Hon'ble Tribunal may pass in the present matter.
9. That the contents of the Affidavit have been prepared under the instructions of the deponent and the same are true and correct and nothing material and has been concealed therefrom.



I, the above named deponent, do hereby verify that the contents of para nos. 1-3, 5, 8 & 9 of this affidavit are true to my personal knowledge, those of para nos. 4, 6 & 7 of are based on records, those of para nos. of are as per the legal advice received & those of para nos. of this affidavit are as per the information received which all I believe to be true. That no part of this affidavit is false and nothing material has been concealed. **SO, HELP ME GOD.**


DEPONENT

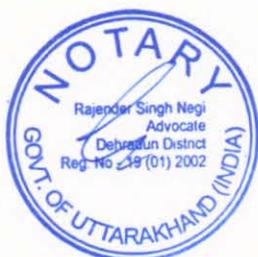
I, Dharmendra Singh, Section Officer, Forest Section-3, Government of Uttarakhand, Dehradun, do hereby identify the deponent who has produced the records of the case before me and I am satisfied that he is the same person as alleged.


IDENTIFIER

Solemnly affirmed before me today, the 4th day of April, 2025 at 8:00 AM/PM by the deponent who has been identified by the aforesaid person.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit, which have been read over and explained to him.

OATH COMMISSIONER/NOTARY



This Affidavit is Sworn before me by
Shri/Smt. Kalpana Nandan
who is identified by Sri Dharmendra Singh
at Dehradun on 4/4/25


Rajender Singh Negi
Advocate & Notary, Dehradun

Item No. 05

Court No. 2

**BEFORE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**Original Application No. 147/2024
(IA No. 561/2024)

Hardeep Sharma

Applicant

Versus

Ramash Chand Aarya

Respondent(s)

Date of hearing: 04.12.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondents: Mr. Deepak Bora, Advocate for State of Uttarakhand
Mr. Mukesh Verma and Ms. Vatsala Tripathi, Advocates for UKPCB
(through VC)
Mr. Pinaki Misra, Senior Advocate with Mr. Siddharth Arora and Mr.
Gaurav Kumar, Advocates for Respondent no. 6**ORDER**

1. This Original Application (hereinafter referred to as 'OA') was registered on a complaint made by Hardeep Sharma, Rashtriya Maha Sachiv, Jai Maa Bharti, Samajik, Hanuman Nagar, Fasiyapur, Dariyal Road, Kashipur, District Udham Singh Nagar, complaining about illegal cutting of about 1100 green trees for construction of colony, and carving out plots at Kashipur. Though permission was obtained for cutting of only 150 trees but much more have been removed. Complainant has said that in 150 bigha land at villages Chandpur, Pratappur, Kashipur of District Udham Singh Nagar, an illegal colony is being developed for plotting wherein there are about 1100 green trees. Nakul Kumar Gupta, Sudhir

Kumar Gupta and Manish Kumar Gupta, R/o Chandpur, Kashipur, Udham Singh Nagar had obtained permission for felling of 150 trees but presently have already cut more than 600 trees. Forest Department, however, has closed matter by charging penalty only against 88 illegally removed trees. On land in question, boundary wall and roads are being constructed. Inspection was made by Joint Committee constituted by Chief Horticulture Officer vide order dated 12.08.2022 and in its inspection report dated 19.12.2022, it stated that trees should not be allowed to be fallen. Permission for felling of 150 trees was given but as per inspection report dated 24.05.2023, 579 trees have been fallen and penalty should be recovered for 648 trees but no appropriate action has been taken.

2. Tribunal looked into the complaint on 15.02.2024 and after being *prima facie* satisfied that a substantial question relating to environment has arisen out of implementation of enactments specified in Schedule I of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') particularly, Environment (Protection) Act, 1986 (hereinafter referred to as '**EP Act, 1986**') and Bio Diversity Act, 2002 (hereinafter referred to as '**B D Act, 2002**'), found it appropriate to implead State of Uttarakhand through Chief Secretary, Government of Uttarakhand; Divisional Forest Officer, Udham Singh Nagar; Uttarakhand Pollution Control Board through Member Secretary; and District Magistrate, Udham Singh Nagar as respondents 11 to 14 in addition to respondents already impleaded as 1 to 10.

3. Notices were issued to all the respondents giving them opportunity to file their responses.

4. Tribunal also found it appropriate to obtain a factual Report for verification of facts stated in the OA and also for suggesting appropriate

remedial action and thus constituted a Joint Committee comprising representatives of Central Pollution Control Board (hereinafter referred to as '**CPCB**'); Divisional Forest Officer, Udham Singh Nagar; Uttarakhand State Pollution Control Board (hereinafter referred to as '**UKPCB**'); and District Magistrate, Udham Singh Nagar. Committee was required to submit its Report within two months.

5. Pursuant to above order, Joint Committee submitted Report dated 21.05.2024 stating that on land at Khata number 00027, 00125, 00126 and 00208, total area 9.910 hectare, a complete boundary wall has been raised. In the centre of above land, there is an old residential house of owner which has been separated by boundary wall. RCC roads of 60 feet, 35 feet and 25 feet have also been constructed and on two plots, construction of residential house was found. On the said land, several trees of Aam, Leechi, Nashpati were found standing. Prior to 2021, land in Khata No 00027 was in the name of Umesh Kumar, son of Indradev; land in Khata number 00126 was in name the of Mahesh Kumar, son of Indradev, Khata number 00125 was in the name of Mahesh Kumar, son of Indradev; and Nakul Kumar son of Mahesh Kumar; and Khata number 00208 was in name of Suresh Kumar, son of Indradev.

6. After death of Umesh Kumar and Mahesh Kumar, sons of Indradev, land, after 2021, got registered in the name of Nakul Kumar, Sudhir Kumar, Manish Kumar, Srimati Rajesh Gupta and Suresh Kumar.

7. At the time of submission of report, several parcels of land, small and big, were registered in the name of 72 owners. Khata No. 0027, Khasra No. 150, total area 1.08 hectare was registered as 'non-agricultural land' and remaining was registered as 'agricultural land'.

8. Sudhir Kumar Gupta, owner of Khata No. 0027, Khasra No. 157, submitted an application for felling of 25 trees of lichee and 50 trees of mango.

9. Similarly, Nakul Kumar Gupta submitted application for seeking permission for cutting of 60 trees of mango in Khata No. 125, Khasra No. 145, 152, 153 and 147 and Manish Gupta submitted application seeking permission for cutting of 50 Mango trees in Khata No. 0027, Kasra No. 156.

10. For disposal of above applications, Chief Horticulture Officer, Udham Singh Nagar, constituted a three-members committee comprising:

- i. Jagdish Chand Tiwari, Senior Horticulture Inspector
- ii. R.D. Bhatt, Senior Horticulture Inspector.
- iii. K.L. Sagar, Assistant Development Officer.

11. For considering applications seeking permission for cutting of lichee trees, a three members' Committee was constituted comprising following:

- i. Jagdish Chand Tiwari, Senior Horticulture Inspector.
- ii. Gopal Ram, Assistant Development Officer.
- iii. K.L. Sagar, Assistant Development Officer.

12. For disposal of application seeking permission, inspection was made on 19.12.2022 by Jagdish Chand Tiwari and KL Sagar and they recommended against permission for felling of trees.

13. At the time of inspection, total number of trees reported by the said committee are as under:

- i. Mango-718 (278 trees of 50 years and remaining trees between 2 to 10 years)
- ii. Lichee, 334 (age ranging from 6 to 35 years)
- iii. Nashpati 48 (age about 6 years)



iv. Kathal 1 (age about 15 years).

Total number of trees lost was 1101.

14. Owners of land who sought permission submitted their objections and requested for re-inspection.

15. Tehsildar, Kashipur vide order dated 12.01.2023 directed Ram Singh, Revenue Inspector, Kumari Nirmala Manola, Revenue Sub-Inspector and Senior Horticulture Inspector Reva Dharbhat and Shankar Lal Kohli to jointly inspect area and submit fresh report.

16. Above Committee constituted by Tehsildar inspected land on 13.01.2023 and 22.01.2023 and submitted reports dated 17.01.2023 and 31.01.2023 which were forwarded to Chief Horticulture Officer, Udham Singh Nagar through Tehsildar, Kashipur.

17. On the basis of above inspection reports, Chief Horticulture Officer, Udham Singh Nagar, vide orders dated 19.01.2023 and 06.02.2023 permitted felling of 128 Mango trees and 22 lichee trees.

18. On a complaint made, Forest Department got an enquiry conducted and for illegal cutting of 88 trees, imposed penalty of Rs.4,40,000/- under Sections 4 and 10 of Forest (Conservation) Act, 1980 (hereinafter referred to as '**FC Act, 1980**') and information was given to Divisional Forest Officer and Chief Horticulture Officer for recovery of amount, vide letter dated 19.07.2023.

19. Earlier also, a complaint was made whereupon inspection was made on 24.05.2023 wherein number of trees fell at this site were found as 470.

20. As per revenue record of *fasli* 1430 (2022-23), land in question was shown to have 505 Mango trees, 320 *lichee* trees, 50 *nashpati*, trees and 2 *kathal* trees and 16 other trees.

21. Again, under orders of District Magistrate, Udham Singh Nagar a team was constituted vide order dated 26.09.2023 which went to the site and physically counted trees. It found number of standing trees as under:

- i. Mango- 505
- ii. Lichee- 520
- iii. Nashpati- 50
- iv. Kathal- 2
- v. Jamun- 2

Total 879

22. Pursuant to Tribunal's order, Joint Committee inspected on 25.04.2024 and found number of trees standing on site in question as under:

- i. Mango- 411
- ii. Lichee- 263
- iii. Nashpati- 25
- iv. Kathal- 2
- v. Jamun- 2

Total 703

23. Joint Committee therefore said that 176 trees were found to have been illegally cut and therefore appropriate action should be taken in respect thereto. Relevant extract of Joint Committees report is reproduced as under:

“सयुक्त जांच आख्या निम्नवत् है-

1. निरीक्षण के समय पाया गया कि, ग्राम चांदपुर, त०-काशीपुर के भू-खण्ड, खाता संख्या-00027, 00125, 00126 व 00208 में कुल रकवा 9.910 हैक्टेअर पर लगभग चारो ओर बाउन्ड्रीयाल की गयी है। उक्त भू-खण्ड के मध्य में भू-स्वामी का

पुराना मकान कोठी है, जिसे अन्य भू-खण्ड से पृथक करते हुए बाउन्ड्रीवाल का निर्माण किया गया है। इसके अतिरिक्त शेष भू-खण्ड, जो कि उक्त मकान कोठी के बायें व दाहिनी तरफ स्थित है, पर लगभग 60 फिट, 35 फिट, 25 फिट चौड़ी आदि आर.सी.सी. निर्मित सड़कों का निर्माण किया गया है। उक्त भू-खण्ड पर सड़क निर्माण तथा गेट निर्माण का कार्य एवं भूखण्ड के दो प्लाये पर भवन निर्माण का कार्य चलता हुआ पाया गया। उक्त भू-खण्डों पर आम, लीबी, नाशपाती सहित अन्य छोटे-बड़े वृक्ष भी पाये गये।

2. उक्त खाता संख्या-00027, 00125, 00126, 00208, कुल रकवा 9.910 हैक्टेअर भूमि में वर्ष 2021 से पूर्व खाता संख्या-00027, में श्री उमेश कुमार पुत्र श्री इन्द्रदेव, खाता संख्या-00126 में श्री महेश कुमार पुत्र श्री इन्द्रदेव, खाता संख्या-00125, श्री महेश कुमार पुत्र श्री इन्द्रदेव, नकुल कुमार पुत्र श्री महेश कुमार, खाता संख्या-00208, श्री सुरेश कुमार पुत्र श्री इन्द्रदेव के नाम पर दर्ज थी। श्री उमेश कुमार पुत्र श्री इन्द्रदेव तथा श्री महेश कुमार पुत्र श्री इन्द्रदेव की मृत्यु के पश्चात वर्ष-2021 में उक्त भू-खण्ड श्री नकुल कुमार, श्री सुधीर कुमार, श्री मनीष कुमार, श्रीमति राजेश गुप्ता तथा श्री सुरेश कुमार के नाम दर्ज हो गयी। जो कि वर्तमान में अनेक छोटे-बड़े भू-खण्डों में विहित होकर लगभग 72 भू-स्वामियों के नाम दर्ज अभिलेख है तथा उक्त भू-खण्डों में खाता संख्या-0027 के खसरा संख्या-150 कुल रकवा-1.088 हैक्टेयर भूमि अकृषक दर्ज है, शेष कृषि भूमि दर्ज है।

(खतौनी संलग्न, संलग्नक-3)।

3. उक्त भू-खण्ड स्वामियों श्री सुधीर कुमार गुप्ता पुत्र श्री सुरेश कुमार गुप्ता द्वारा खाता संख्या-0027 के खसरा नं०-157 में लीची के 25 वृक्षों तथा खसरा संख्या-157 आम के 50 वृक्षों के पातन की अनुमति हेतु मुख्य उद्यान अधिकारी, उधमसिंहनगर को प्रार्थना पत्र प्रस्तुत किया गया। इसी प्रकार श्री नकुल कुमार गुप्ता पुत्र स्व० श्री महेश कुमार द्वारा खाता संख्या-125 के खसरा संख्या-145, 152, 153, 147 में आम के 60 वृक्षों के पातन तथा श्री मनीष गुप्ता पुत्र श्री नरेश कुमार गुप्ता द्वारा खाता संख्या-0027 के खसरा संख्या-156 में आम के 50 वृक्षों के पातन हेतु मुख्य उद्यान अधिकारी, उधमसिंहनगर को प्रार्थना पत्र प्रस्तुत किया गया (प्रार्थना पत्रों की छायाप्रति संलग्न, संलग्नक-4)।
4. उक्त प्रथना पत्रों के अनुक्रम में मुख्य उद्यान अधिकारी, उधमसिंहनगर द्वारा प्रार्थना पत्रों के निस्तारण हेतु अपने पत्र दिनांक 12.08.2022 द्वारा खाता संख्या-125 के खसरा संख्या-145, 152, 153, 147, खाता संख्या-0027 के खसरा नं०-157 तथा खाता संख्या-0027 के खसरा संख्या-156 पर आम के वृक्षों के पातन हेतु प्रार्थना पत्रों के निस्तारण हेतु निम्नलिखित 3 सदस्यों की समीति गठित की गयी (संलग्नक-5)।

1. श्री जगदीश चन्द्र तिवारी, ज्येष्ठ उद्यान निरीक्षक, उद्यान सचल केन्द्र, काशीपुर, उधमसिंहनगर।

2. श्री आर.डी. भट्ट, ज्येष्ठ उद्यान निरीक्षक, कार्यालय मुख्य उद्यान अधिकारी, उधमसिंहनगर।-3-

3. श्री के.एल. सागर, सहायक विकास अधिकारी, उद्यान सचल केन्द्र, कुण्डेश्वरी, काशीपुर, उधमसिंहनगर।

इसके अतिरिक्त दिनांक 22.08.2022 को खाता संख्या-0027 के खसरा नं०-157 में लीची के वृक्षों के पातन हेतु प्रार्थना पत्र के निस्तारण हेतु निम्नानुसार 3 सदस्यों की समीति गठित की गयी-(संलग्नक-6)

1. श्री जगदीश चन्द्र तिवारी, ज्येष्ठ उद्यान निरीक्षक, उद्यान सचल केन्द्र, काशीपुर, उधमसिंहनगर।
2. श्री गोपाल राम, सहायक विकास अधिकारी, कार्यालय मुख्य उद्यान अधिकारी, उधमसिंहनगर।
3. श्री के.एल. सागर, सहायक विकास अधिकारी, उद्यान सचल केन्द्र, कुण्डेश्वरी, काशीपुर, उधमसिंहनगर।

उपरोक्त प्रार्थना पत्रों के निस्तारण हेतु दिनांक 19.12.2022 को श्री जगदीश चन्द्र तिवारी, ज्येष्ठ उद्यान निरीक्षक तथा श्री के.एल. सागर, सहायक विकास अधिकारी द्वारा निरीक्षण कर जांच रिपोर्ट प्रस्तुत की गयी, जिसमें वृक्षों के पातन न किये जाने की संस्तुति की गयी। निरीक्षण आख्या के बिन्दु संख्या-5 में बाग में कुल वृक्षों की संख्या निम्नानुसार अवगत करायी गयी (संलग्नक-7)।

1. आम के वृक्ष-718 (278 आम वृक्ष लगभग 50 साल, शेष वृक्ष 2 साल से 10 साल)।
2. लीची के वृक्ष-334 (लीची वृक्ष की आयु 6 साल से 35 साल)।
3. नाशपाती के वृक्ष-48 (नाशपाती वृक्ष लगभग 6 साल)।
4. कटहल के वृक्ष-01 (कटहल वृक्ष 15 साल)।

उपरोक्तानुसार कुल वृक्षों की संख्या 1101 है।

5. उक्त निरीक्षण दिनांक 19.12.2022 के क्रम में की गयी संस्तुतियों के विरुद्ध प्रार्थियों द्वारा जिला उद्यान अधिकारी, उधमसिंहनगर को दिनांक 28.12.2022 को आपत्तियां प्रस्तुत करते हुये पुनः स्थलीय निरीक्षण कर प्रकरणों का निस्तारण किये जाने का अनुरोध किया गया। उक्त आवेदन के क्रम में जिला उद्यान अधिकारी द्वारा बाग काफी बढ़ा होने एवं पेड़ों की संख्या अधिक होने के कारण वृक्षों के पातन हेतु राजस्व विभाग एवं उद्यान विभाग की संयुक्त सभ्यति गठित कर संयुक्त निरीक्षण कराये जाने हेतु दिनांक 03.01.2023 को संयुक्त मजिस्ट्रेट/उपजिलाधिकारी, काशीपुर को पत्र प्रेषित किया गया (संलग्नक-8)।

6. उक्त अनुरोध के क्रम में तहसीलदार, काशीपुर द्वारा दिनांक 12.01.2023 को श्री राम सिंह, राजस्व निरीक्षक, क्षेत्र काशीपुर, कु० निर्मला मनौला, राजस्व उप निरीक्षक, क्षेत्र काशीपुर तथा उद्यान विभाग के ज्येष्ठ उद्यान निरीक्षकों श्री रेवाधर भट्ट तथा श्री शंकर लाल कोहली को संयुक्त निरीक्षण कर आख्या प्रेषित किये जाने हेतु निर्देशित किया गया (संलग्नक-9)।

7. उक्त गठित संयुक्त समिति द्वारा दिनांक 13.01.2023 तथा 22.01.2023 को सम्बन्धित स्थलों का निरीक्षण करते हुए अपनी जांच रिपोर्ट तहसीलदार, काशीपुर के माध्यम से दिनांक 17.01.2023 व 31.01.2023 को मुख्य उद्यान अधिकारी, उधमसिंहनगर को प्रेषित की गयी (संलग्नक-10)

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8. उक्त जांच आख्याओं के आधार पर आवेदित खसरा संख्याओं में आम के कुल 128 वृक्ष तथा लीची के कुल-22 वृक्षों के पातन की सशर्त अनुमति जिला उद्यान अधिकारी, उधमसिंहनगर द्वारा दिनांक 19.01.2023 तथा 06.02.2023 को निर्गत की गयी (संलग्नक-11)।

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9. उक्त पातन के सम्बन्ध में सी.एम. हैल्पलाईन में दर्ज शिकायत के कम में वन विभाग द्वारा की गयी जांच के आधार पर 150 वृक्षों के पातन की स्वीकृति के अतिरिक्त 88 वृक्षों के बिना अनुमति पातन पर वन विभाग द्वारा वृक्ष संरक्षण अधिनियम-1986 की धारा 4 व 10 के अन्तर्गत ₹० 4,40,000/- का जुर्माना आरोपित किये जाने एवं वसूले जाने की सूचना दिनांक 19.07.2023 को प्रभागीय वनाधिकारी, तराई पश्चिमी वन प्रभाग, रामनगर द्वारा मुख्य उद्यान अधिकारी, उद्यमसिंहनगर को दी गयी (संलग्नक-12)।

10. इससे पूर्व सी.एम. हैल्पलाईन में दर्ज शिकायत के कम में उद्यान विभाग के श्री जगदीश चन्द्र तिवारी, ज्येष्ठ उद्यान अधिकारी तथा श्री दिवाकर पाण्डे, सहायक विकास अधिकारी द्वारा उक्त बाग का निरीक्षण किया गया तथा दिनांक 24.05.2023 तक कुल जीवित पौधों की संख्या-531, काटे गये पेड़ों की संख्या-470 अवगत करायी गयी (जिसमें 150 वृक्षों की अनुमति तथा बिना अनुमति के काटे गये 88 वृक्ष भी सम्मिलित हैं)। इसके अतिरिक्त प्लांटिंग के अन्दर 90 प्रतिशत हानि पहुंचाये गये वृक्षों की संख्या 178 भी अवगत करायी गयी (संलग्नक-13)।

11. राजस्व विभाग के फसली वर्ष 1430 (2022-2023) के खसरा नकल के अनुसार उक्त भूखण्ड पर आम के 505 वृक्ष, लीची के 320 वृक्ष, नाशपाती के 50 वृक्ष, कटहल के 2 वृक्ष तथा अन्य 16 वृक्ष दर्ज अभिलेख है। नकल की छायाप्रति संलग्न है (संलग्नक-14)।

12. जिलाधिकारी, उद्यमसिंहनगर के निर्देशानुसार गठित टीम द्वारा दिनांक 26.09.2023 को सम्बन्धित स्थल का निरीक्षण किया गया, जिसमें शिकायतकर्ता श्री हस्दीप शर्मा (मा० राष्ट्रीय हरित अधिकरण में योजित मूल आवेदन संख्या-147/2024, के आवेदक) तथा भू-स्वामी के प्रतिनिधि की उपस्थिति में वृक्षों की गणना की गयी, जिसमें उपजिलाधिकारी, काशीपुर, मुख्य उद्यान अधिकारी, उद्यमसिंहनगर, उपप्रभागीय वनाधिकारी, रामनगर, वनक्षेत्राधिकारी, काशीपुर, तहसीलदार, काशीपुर सहित राजस्व विभाग, वन विभाग व उद्यान विभाग के अन्य कर्मचारी भी उपस्थित थे। संयुक्त टीम द्वारा वृक्षों की गणना की गयी। तत्समय मौके पर खड़े एवं जीवित वृक्षों की संख्या निम्नानुसार पायी गयी (संलग्नक-15)।

1. आम-505
2. लीची-320
3. नाशपाती-50
4. कटहल-2
5. जामुन-2

उपरोक्तानुसार कुल-879 वृक्ष पाये गये।

उक्त योजित मूल आवेदन संख्या-147/2024, में पारित आदेश दिनांक 25.04.2024 के अनुपालन में गठित संयुक्त जांच समीति द्वारा उद्यान विभाग, राजस्व विभाग तथा वन विभाग को सम्मिलित करते हुये शिकायतकर्ता श्री हरदीप शर्मा तथा भू-स्वामियों की उपस्थिति में सम्बन्धित स्थल का निरीक्षण दिनांक 08.05.2024 तथा 10.05.2024 को करते हुये उक्त भू-खण्ड में वृक्षों की गणना की गयी। निरीक्षण के समय मौके पर खड़े वृक्षों की संख्या निम्नानुसार पायी गयी। (संलग्नक-16)।

1. आम-411 (13 वृक्ष सूखे एवं अन्य जीवित)
2. लीची-263

3. नाशपाती-25

4. कटहल-2

5. जामुन-2

उपरोक्तानुसार कुल-703 वृक्ष पाये गये।

उक्त सम्पूर्ण भू-खण्ड में की गयी फलदार वृक्षों की गणना के अनुसार वर्तमान में दिनांक 26.09.2023 को की गयी गणना के सापेक्ष आम के 94 वृक्ष, लीची के 57 वृक्ष, नाशपाती के 25 वृक्ष, कुल-176 वृक्ष कम पाये गये। इस सम्बन्ध में भू-खण्ड स्वामियों के प्रतिनिधियों द्वारा अवगत कराया गया कि, उक्त में से 165 वृक्षों को अन्यत्र प्रतिस्थापित किया गया है। इस संबंध में भू-स्वामियों के प्रतिनिधियों द्वारा पर्यावरण सुरक्षा वृक्षारोपण, जन सेवा समीति (रजि०) नामक संस्था का पत्र प्रस्तुत कराया गया है (संलग्नक-17)। उक्त सम्बन्ध में वृक्षों के अन्यत्र प्रतिस्थापन के सम्बन्ध में भू-स्वामियों द्वारा कोई भी अनुमति प्राप्त नहीं की गयी है। वन विभाग तथा उद्यान विभाग द्वारा अवगत कराया गया है, कि वृक्षों के प्रतिस्थापन के सम्बन्ध में अनुमति दिये जाने के सम्बन्ध में कोई भी नियम विद्यमान नहीं है। इस संबंध में उपरोक्तानुसार, कम पाये गये कुल 176 वृक्षों के संबंध में संबंधित विभागों द्वारा नियमानुसार कार्यवाही किया जाना उचित होगा।

इसके अतिरिक्त जिला विकास प्राधिकरण कार्यालय काशीपुर द्वारा जिला स्तरीय विकास प्राधिकरण उद्यमसिंहनगर द्वारा जारी आदेश दिनांक 18.03.2021 प्राप्त कराया गया है (संलग्नक-18)। उक्त कार्यालय आदेश के अनुसार उक्त चांदपुर ग्राम विनियमित क्षेत्र के अन्तर्गत नहीं है।

English Translation by Tribunal:

"The joint investigation report is as follows-

1. During inspection, it was found that the land plot of village Chandpur, Tehsil Kashipur, Khata No. 00027, 00125, 00126 and 00208, having full area of 9.910 hectares, has been surrounded by boundary wall. In the middle of the said plot, there is an old house of the landowner, which has been separated from other plots by constructing a boundary wall. Apart from this, on the remaining plot, which is situated on the left and right side of the said house, about 60 feet, 35 feet, 25 feet wide etc. RCC roads have been constructed. The work of road construction and gate construction on the said plot and the construction of a building on two plots of the plot was found to be going on. Mango, Lychee, Pear and other small and big trees were also found on the said plots.

2. The said account numbers-00027, 00125, 00126, 00208, with total area of 9.910 hectare land was registered in the name of Shri Umesh Kumar s/o Shri Indradev in account number-00027, Shri Mahesh Kumar s/o Shri Indradev in account number-00126, Shri Mahesh Kumar s/o Shri Indradev in account number-00125, Nakul Kumar s/o Shri Mahesh Kumar, account number-00208, Shri Suresh Kumar s/o Shri Indradev before the year 2021. After the death of Shri Umesh Kumar s/o Shri Indradev and Shri Mahesh Kumar s/o Shri Indradev,

in the year 2021, the said land was registered in the name of Shri Nakul Kumarar, Shri Sudhir Kumar, Shri Manish Kumar, Smt. Rajesh Gupta and Shri Suresh Kumar which at present has been divided into many small and big plots and records are registered in the name of about 72 landowners and in the said plots, Khasra number-150 of account number-0027, total area- 1.088 hectare land is recorded as non-agricultural land, rest is recorded as agricultural land.

(Khatauni attached, Annexure-3).

3. The owner of the above plot, Shri Sudhir Kumar Gupta s/o Shri Suresh Kumar Gupta, submitted an application to the Chief Horticulture Officer, Udham Singh Nagar for permission to fell 25 lychee trees in Khasra No. 157 of account number-0027 and 50 mango trees in Khasra No. 157. Similarly, Shri Nukul Kumar Gupta s/o late Shri Mahesh Kumar, submitted an application to the Chief Horticulture Officer, Udham Singh Nagar for felling 60 mango trees in Khasra No. 145, 152, 153, 147 of account number-125 and Shri Manish Gupta s/o Shri Naresh Kumar Gupta, submitted an application to the Chief Horticulture Officer, Udham Singh Nagar for felling 50 mango trees in Khasra No. 156 of account number-0027 (Copy of applications is enclosed, Annexure-4).

4. In continuation of the above applications, the Chief Horticulture Officer, Udham Singh Nagar, vide his letter dated 12.08.2022, constituted the following 3-member committee for disposal of applications for felling of mango trees on Khasra No. 145, 152, 153, 147 of account number-125, Khasra No. 157 of account number-0027 and Khasra No. 156 of account number-0027 (Annexure-5).

1. Shri Jagdish Chandra Tiwari, Senior Garden Inspector, Garden Mobile Centre, Kashipur, Udham Singh Nagar

2. Shri R.D. Bhatt, Senior Garden Inspector, Office of Chief Garden Officer, Udham Singh Nagar

3. Shri K.L. Sagar, Assistant Development Officer, Garden Mobile Centre, Kundeshwari, Kashipur, Udham Singh Nagar

Apart from this, on 22.08.2022, a committee of 3 members was constituted as follows for the disposal of the application for felling of lychee trees in Khasra No. 157 of Account No. 0027 - (Attachment-6)

1. Shri Jagdish Chandra Tiwari, Senior Garden Inspector, Garden Mobile Center, Kashipur, Udham Singh Nagar

2. Shri Gopal Ram, Assistant Development Officer, Office of Chief Garden Officer, Udham Singh Nagar

3. Shri K.L. Sagar, Assistant Development Officer, Garden Mobile Center, Kundeshwari, Kashipur, Udham Singh Nagar

For the disposal of the above applications, on 19.12.2022, Shri Jagdish Chandra Tiwari, Senior Garden Inspector and Shri K.L. Sagar, Assistant Development Officer inspected and submitted the investigation report, in which it was recommended not to fell the trees. In point number-5 of the inspection report, the total number of trees in the garden has informed as follows (Annexure-7):-

1. Mango trees-718 (278 mango trees are about 50 years old, remaining trees are 2 years to 10 years old).
2. Litchi trees-334 (age of litchi trees is 6 years to 35 years).
3. Pear trees-48 (pear trees are about 6 years old).
4. Jackfruit tree-01 (jackfruit tree is 15 years old).

As per above, total number of trees is 1101.

5. The applicants submitted objections to the District Horticulture Officer, Udham Singh Nagar on 28.12.2022 against the recommendations made in the said inspection dated 19.12.2022 and requested him to dispose of the cases by conducting a fresh on-site inspection. In continuation of the said application, the District Horticulture Officer sent a letter to the Joint Magistrate/Sub-Divisional Magistrate, Kashipur on 03.01.2023 for conducting a joint inspection by forming a joint committee of the Revenue Department and the Horticulture Department for felling of the trees as the garden was quite large and the number of trees was large (Annexure-8).

6. In continuation of the above, on 12.01.2023, the Tehsildar, Kashipur directed Shri Ram Singh, Revenue Inspector, Kashipur Area, Ms. Nirmla Manaula, Revenue Sub Inspector, Kashipur Area and Senior Garden Inspectors of Garden Department, Shri Revadhar Bhatt and Shri Shankar Lal Kohli to conduct a joint inspection and send a report (Attachment-9).

7. The above constituted joint committee inspected the relevant sites on 13.01.2023 and 22.01.2023 and sent its investigation report through the Tehsildar, Kashipur to the Chief Horticulture Officer, Udham Singh Nagar on 17.01.2023 and 31.01.2023 (Attachment-10).

8. On the basis of the said investigation reports, conditional permission for felling of a total of 128 mango trees and a total of 22 lychee trees in the applied Khasra numbers was issued by the District Horticulture Officer, Udham Singh Nagar on 19.01.2023 and 06.02.2023 (Attachment-11).

9. Regarding the said felling, on the basis of investigation conducted by the Forest Department in the matter of complaint lodged in CM

Helpline, in addition to approval of felling of 150 trees, information regarding imposition and recovery of fine of Rs. 4,40,000/- under Section 4 and 10 of Tree Protection Act-1986 by the Forest Department on felling of 88 trees without permission was given on 19.07.2023 by the Divisional Forest Officer, Terai Western Forest Division, Ramnagar to the Chief Horticulture Officer, Udham Singh Nagar (Annexure-12).

10. Earlier, in the matter of complaint lodged in CM Helpline, Shri Jagdish Chandra Tiwari, Senior Horticulture Officer and Shri Diwakar Pandey, Assistant Development Officer of the Horticulture Department inspected the said garden and till 24.05.2023, the total number of living plants was informed as 531, number of trees cut as 470 (which includes 150 trees cut with permission and 88 trees cut without permission). Apart from this, the number of trees damaged by 90 percent inside the plotting was also informed as 178 (Annexure-13).

11. According to the Khasra copy of the Revenue Department's crop year 1430 (2022-2023), there are 505 mango trees, 320 litchi trees, 50 pear trees, 2 jackfruit trees and 16 other trees recorded on the said plot. Photocopy is attached (Annexure-14)

12. As per the instructions of District Magistrate, Udham Singh Nagar, the concerned site was inspected on 26.09.2023 by the constituted team, in which the trees were counted in the presence of the complainant Mr. Hasdeep Sharma (applicant of original application number-147/2024 filed in Hon'ble National Green Tribunal) and the representative of the landowner, in which Sub-District Magistrate, Kashipur, Chief Horticulture Officer, Udham Singh Nagar, Sub-Divisional Forest Officer, Ramnagar, Forest Range Officer, Kashipur, Tehsildar, Kashipur and other employees of Revenue Department, Forest Department and Horticulture Department were also present. The trees were counted by the joint team. At that time, the number of standing and living trees on the spot was found as follows (Annexure-15).

1. Mango-505

2. Lychee-320

3. Pear-50

4. Jackfruit-2

5. Jamun-2

As per above, a total of 879 trees were found.

In compliance with the order dated 25.04.2024 passed in the said original application number-147/2024, the Joint Investigation Committee constituted by including the Horticulture Department,

Revenue Department and Forest Department, inspected the concerned site in the presence of the complainant Shri Hardeep Sharma and the landowners on 08.05.2024 and 10.05.2024 and counted the trees in the said plot. At the time of inspection, the number of trees standing on the spot was found as follows. (Annexure-16).

1. Mango-411 (13 trees dried and others alive)
2. Litchi-263
3. Pear-25
4. Jackfruit-2
5. Jamun-2

As per above, a total of 703 trees were found.

According to the counting of fruit trees done in the said entire land plot, at present, 94 mango trees, 57 litchi trees, 25 pear trees, total 176 trees were found less as compared to the counting done on 26.09.2023. In this regard, the representatives of the land plot owners informed that, out of the above, 165 trees have been replaced elsewhere. In this regard, a letter from an organization named Environment Protection Tree Plantation, Jan Seva Samiti (Regd.) has been submitted by the representatives of the land owners (Annexure-17). In this regard, no permission has been obtained by the land owners regarding the replacement of trees elsewhere. The Forest Department and the Horticulture Department have informed that there is no rule regarding granting permission for the replacement of trees. In this regard, as above, **it would be appropriate for the concerned departments to take action as per the rules in respect of the total 176 trees found less.**

Apart from this, the order dated 18.03.2021 issued by the District Development Authority Office Kashipur has been received by the District Level Development Authority Udham Singh Nagar (Attachment-18). According to the said office order, Chandpur village is not under the regulated area.”

24. Divisional Forest Officer, Udham Singh Nagar submitted report dated 22.05.2024 wherein, it has referred to Joint Committee Report and further said that illegal felling of 176 trees which included 94 Mango trees, 57 lichee trees and 25 Nashpati trees have been found in respect whereof Forest Case No. 03/Kashipur/2024-25 has been registered. Concerned Officers were required to take appropriate action after making enquiry.

25. A similar reply has also been filed by District Magistrate, Udham Singh Nagar vide letter dated 22.05.2024.

26. UKPCB has submitted its reply vide affidavit dated 22.05.2024 wherein also it has referred to Joint Committee's report and said that a total 264 trees fell illegally but penalty has been recovered for only 88 trees by Forest Department. Further action has been recommended to be taken by concerned Authorities.

27. On behalf of State of Uttarakhand, Chief Horticulture Officer, Udham Singh Nagar has filed its response wherein also it has referred to Joint Committee's Report and observations and findings mentioned therein, therefore, we are not repeating the same.

28. Tribunal when considering the matter on 08.08.2024, enquired from UKPCB, respondent 13, as to what action it has taken for illegal felling of trees and thereby damage caused to environment. It was directed to submit relevant information.

29. Respondent 6 i.e., Nakul Kumar Gupta filed response dated 22.08.2024 giving details of property in question which has changed hands repeatedly, bringing in several persons as owner of land and claimed that he is not responsible for felling of trees illegally hence complaint against him is liable to be rejected. Facts stated by him in para 2 to 20 are reproduced as under:

"2. That Mr. Mahesh Kumar Gupta, son of Mr. Inder Dev Gupta, during his lifetime, was the recorded co-owner of immovable property measuring 4.3380 hectare, situated in Khata No. 125, Village Chandpur, Kashipur, Uttarakhand, with his son i.e. the Respondent No. 6, in the following manner:

| S. No. | Particulars of Khasra Nos. | Area (in hectare) |
|--------|----------------------------|----------------------|
| 1. | 145 | 1.2380 |
| 2. | 147 | 0.1820 |
| 3. | 152 | 1.2630 |
| 4. | 153/ 1 | 1.4610 |
| 5. | 158 | 0.1940 |
| | Total | 4.3380 |

3. That Mr. Mahesh Kumar Gupta, during his lifetime, was also the recorded owner of immovable property measuring 0.2550 hectare, situated in Khata No. 126, Village Chandpur, Kashipur, Uttarakhand, in the following manner:

| S. No. | Particulars of Khasra Nos. | Area (in hectare) |
|--------|----------------------------|----------------------|
| 1. | 145 | 0.0650 |
| 2. | 147 | 0.0320 |
| 3. | 152 | 0.0810 |
| 4. | 153 | 0.0770 |
| | Total | 0.2550 |

4. That Mr. Mahesh Kumar Gupta expired on 04.04.2021 and upon the demise of Mr. Mahesh Kumar Gupta, all his rights, title and interest in immovable property situated in Khata Nos. 125 & 126, devolved upon his son, namely Mr. Nakul Kumar Gupta i.e. the Respondent No. 6 and his wife, namely Mrs. Rajesh Gupta. True Copy of the Death Certificate of Mr. Mahesh Kumar Gupta is annexed herewith as Annexure-R1.

5. That Mrs. Rajesh Gupta gifted her entire rights, title and interest in Khasra Nos. 145, 147, 152, and 153/1, situated in Khata No. 125, to the Respondent No. 6, by way of Gift Deed dated 21.04.2023, bearing Registration No. 2104, in Book No. 1, Volume No. 7420, on Pages 295 to 318.

6. That Mrs. Rajesh Gupta also gifted her entire rights, title and interest in Khasra Nos. 145, 147, 152, and 153, situated in Khata No. 126, to the Respondent No. 6, by way of Gift Deed dated 21.04.2023, bearing Registration No. 2103, in Book No. 1, Volume No. 7420, on Pages 271 to 294.

7. That Mr. Umesh Kumar Gupta, another son of Mr. Inder Dev Gupta, during his lifetime, was the recorded owner of immovable property measuring 5.2890 hectare, situated in Khata No. 27, Village Chandpur, Kashipur, Uttarakhand, in the following manner:

| S. No. | Particulars of Khasra Nos. | Area (in hectare) |
|--------|----------------------------|----------------------|
| 1. | 146 | 1.1170 |
| 2. | 149 | 0.0120 |
| 3. | 150 | 1.0880 |
| 4. | 154 | 0.2630 |
| 5. | 155 | 0.0770 |
| 6. | 156 | 0.9470 |
| 7. | 157 | 1.7850 |
| | Total | 5.2890 |

8. That Mr. Umesh Kumar Gupta remained a bachelor throughout his life and expired on 21.04.2021. Upon the demise of Mr. Umesh Kumar Gupta, all his rights, title and interest in immovable property situated in Khata No. 27, were divided amongst upon his three nephews, namely Mr. Sudhir Gupta, son of Mr. Suresh Gupta, Mr. Manish Gupta, son of Mr. Naresh Gupta, and Mr. Nakul Kumar Gupta i.e. the Respondent No. 6. True Copy of Death Certificate of Mr. Umesh Kumar Gupta is annexed herewith as Annexure-R2.

9. That the Respondent No. 6 gifted his entire rights, title and interest in Khasra Nos. 156 and 157, situated in Khata No. 27, to his cousin brothers, namely Mr. Sudhir Gupta and Mr. Manish Gupta, in the following manner:

(a) Gift Deed dated 29.06.2022, bearing Registration No. 5747, in Book No. 1, Volume No. 6972, on Pages 101 to 122; and

(b) Gift Deed dated 29.06.2022, bearing Registration No. 5748, in Book No. 1, Volume No. 6972, on Pages 123 to 142.

10. That Mr. Sudhir Gupta and Mr. Manish Gupta sold their entire rights, title and interest in Khasra Nos. 146, 154 and 155, situated in Khata No. 27, to the Respondent No. 6, by way of Sale Deed dated 29.06.2022, bearing Registration No. 5743, in Book No. 1, Volume No. 6972, on Pages 21 to 42.

11. That the Respondent No. 6 sold his rights, titles and interest in Khata Nos. 27 and 125 in the following manner:

(i) The sale or transfer transactions made by the Respondent No. 6 during the year 2022 are as follows:



| Village/Location | Registration Date | Reg. No. | Area | Property No. | Deed Type | Jld Details | Seller/First Party | Buyer/Second Party | Buyer/Second Gender | SRO Name | Download Document |
|------------------|-------------------|----------|---------------|--------------|------------------|--------------------------------|--|---|---------------------|----------|-------------------|
| बाँटपुर | 29 Jun 2022 | 5747 | 0.395 हेक्टर | 157 min 0 0 | Gift (Immovable) | Jld No: 6972 Pages: 104 to 122 | नकुल कुमार गुप्ता S/O महेरा कुमार गुप्ता , | सुधीर गुप्ता S/O सुरेश कुमार गुप्ता , मनीष गुप्ता S/O नरेश कुमार गुप्ता , | | काशीपुर | Download Document |
| बाँटपुर | 29 Jun 2022 | 5748 | 0.3156 हेक्टर | 156 MIN 0 0 | Gift (Immovable) | Jld No: 6972 Pages: 123 to 142 | नकुल कुमार गुप्ता S/O महेरा कुमार गुप्ता , | सुधीर गुप्ता S/O सुरेश कुमार गुप्ता , मनीष गुप्ता S/O नरेश कुमार गुप्ता , | | काशीपुर | Download Document |
| बाँटपुर | 30 Jun 2022 | 5790 | 0.194 हेक्टर | 158 MIN 0 0 | Sale (Immovable) | Jld No: 6974 Pages: 165 to 186 | नकुल कुमार गुप्ता S/O महेरा कुमार गुप्ता , | सचिन अग्रवाल S/O अमित कुमार अग्रवाल , सोमेश अग्रवाल S/O सुरेश कुमार अग्रवाल , सुरेश कुमार अग्रवाल S/O अमरनाथ , राशि प्रकाश अग्रवाल S/O मूल प्रकाश अग्रवाल , | | काशीपुर | Download Document |

(ii) The sale transactions made by the Respondent No. 6 during the year 2023 are as follows:

| | | | | | | | | | | | |
|---------|-------------|-------|--------------|---------------|------------------|--------------------------------|--|---|--|---------|-------------------|
| बाँटपुर | 16 Sep 2023 | 7657 | 0.149 हेक्टर | 145 min 0 0 | Sale (Immovable) | Jld No: 7714 Pages: 379 to 402 | नकुल कुमार S/O सोम महेरा कुमार , | रहमान अल S/O अला मोहम्मद , | | काशीपुर | Download Document |
| बाँटपुर | 16 Sep 2023 | 7658 | 0.093 हेक्टर | 146 MIN 0 0 | Sale (Immovable) | Jld No: 7715 Pages: 1 to 24 | नकुल कुमार S/O सोम महेरा कुमार , | राम किशोर S/O रुबना सिंह , | | काशीपुर | Download Document |
| बाँटपुर | 16 Sep 2023 | 7659 | 0.093 हेक्टर | 145 MIN 0 0 | Sale (Immovable) | Jld No: 7715 Pages: 25 to 48 | नकुल कुमार S/O सोम महेरा कुमार , | केलाश चन्द्र विहारी S/O महेरा चन्द्र विहारी , | | काशीपुर | Download Document |
| बाँटपुर | 22 Dec 2023 | 10746 | 0.143 हेक्टर | 152 MIN 0 0 | Sale (Immovable) | Jld No: 7873 Pages: 241 to 264 | नकुल कुमार गुप्ता S/O महेरा कुमार गुप्ता , | शैलेश गोपाल S/O मदन मोहन शैलेश , | | काशीपुर | Download Document |
| बाँटपुर | 22 Dec 2023 | 10747 | 0.143 हेक्टर | 152 min 0 0 | Sale (Immovable) | Jld No: 7873 Pages: 265 to 288 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | शैलेश गोपाल S/O मदन मोहन शैलेश , | | काशीपुर | Download Document |
| बाँटपुर | 22 Dec 2023 | 10748 | 0.181 हेक्टर | 152 MIN 0 0 | Sale (Immovable) | Jld No: 7873 Pages: 289 to 312 | नकुल कुमार गुप्ता S/O महेरा कुमार गुप्ता , | मोहम्मद अशरफ (कंप्यूटर मैकेनिक आधिपान सर्टिफेट सोल्यूशन्स प्रा०लि०) S/O मोहम्मद यामीन , | | काशीपुर | Download Document |
| बाँटपुर | 22 Dec 2023 | 10757 | 0.465 हेक्टर | 153.5 MIN 0 0 | Sale (Immovable) | Jld No: 7874 Pages: 101 to 124 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | सचिन कुमार अग्रवाल S/O अमित कुमार अग्रवाल , | | काशीपुर | Download Document |
| बाँटपुर | 22 Dec 2023 | 10768 | 0.125 हेक्टर | 152 MIN 0 0 | Sale (Immovable) | Jld No: 7874 Pages: 367 to 390 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | राजेश चन्द्र गोपाल S/O वादर चन्द्र गोपाल , | | काशीपुर | Download Document |
| बाँटपुर | 22 Dec 2023 | 10779 | 0.263 हेक्टर | 145 MIN 0 0 | Sale (Immovable) | Jld No: 7875 Pages: 203 to 226 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | निष्कान्त गोपाल S/O रामचन्द्र अग्रवाल , | | काशीपुर | Download Document |

(iii) The sale transactions made by the Respondent No. 6 during the year 2024 are as follows:

| Village/Location | Registration Date | Reg. No. | Area | Property No. | Deed Type | Jld Details | Seller/First Party | Buyer/Second Party | Buyer/Second Gender | SRO Name | Download Document |
|------------------|-------------------|----------|--------------|-----------------|------------------|--------------------------------|--|--|---------------------|----------|-------------------|
| बाँटपुर | 21 Feb 2024 | 1831 | 0.1 हेक्टर | 145 MIN 0 0 | Sale (Immovable) | Jld No: 7984 Pages: 117 to 140 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | संजीव चामा S/O हरि ओम चामा , | | काशीपुर | Download Document |
| बाँटपुर | 21 Feb 2024 | 1833 | 0.099 हेक्टर | 152 MIN 0 0 | Sale (Immovable) | Jld No: 7984 Pages: 161 to 184 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | गुलशन कुमार S/O नशा सिंह , | | काशीपुर | Download Document |
| बाँटपुर | 21 Feb 2024 | 1839 | 0.051 हेक्टर | 146 MIN 0 0 | Sale (Immovable) | Jld No: 7984 Pages: 309 to 332 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | राजकुमार (मुजफ्फर अम अदानी कागि माता श्रीमती स्वरना देवी पत्नी श्री रमेश लाल) S/O रमेश लाल , | | काशीपुर | Download Document |
| बाँटपुर | 21 Feb 2024 | 1840 | 0.063 हेक्टर | 145 MIN 0 0 | Sale (Immovable) | Jld No: 7984 Pages: 333 to 356 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | सोह रावत W/O अमित सिंह रावत पुत्री श्री सोनार सिंह , | | काशीपुर | Download Document |
| बाँटपुर | 21 Feb 2024 | 1841 | 0.475 हेक्टर | 152 MIN ETC 0 0 | Sale (Immovable) | Jld No: 7984 Pages: 337 to 382 | नकुल कुमार गुप्ता S/O सोम महेरा कुमार गुप्ता , | राशि प्रकाश अग्रवाल (मुजफ्फर अम अदानी कागि माता श्रीमती सुशी देवी पत्नी सोम मूल प्रकाश अग्रवाल) S/O सोम मूल प्रकाश अग्रवाल , | | काशीपुर | Download Document |

12. That the afore-stated facts are available on <https://online.eregistrationukgov.in/> and the same have been downloaded and tabulated here for ready reference and kind convenience of this Hon'ble Tribunal.

13. That an area of 1.143 hectares situated in Khata Nos. 27, 125, and 126 remains to be formally conveyed by Respondent No. 6 to third parties through the execution and registration of sale deeds. However, this area of 1.143 hectares was also agreed to be sold by Respondent

No. 6 in the year 2022 itself, and no part or portion of the entire land in question is to be retained by Respondent No. 6.

14. That prior to the execution of the aforementioned sale deeds, Respondent No. 6 had submitted two applications dated 08.08.2022 for permission to fell old and decaying trees at Khata Nos. 27 and 125. However, since an area of approximately 4.499 hectares was sold by Respondent No. 6 to third parties, the permission to fell old and decaying trees was not followed up by Respondent No. 6.

15. That Mr. Sudhir Gupta and Mr. Manish Gupta sold their entire rights, title and interest in Khasra No. 157, situated in Khata No. 27, by way of by way of Sale Deed dated 30.06.2022, bearing Registration No. 5787, in Book No. 1, Volume No. 6974, on Pages 101 to 122, in favour of third party.

16. That Mr. Sudhir Gupta and Mr. Manish Gupta sold their entire rights, title and interest in Khasra No. 156, situated in Khata No. 27, by way of by way of Sale Deed dated 30.06.2022, bearing Registration No. 5788, in Book No. 1, Volume No. 6974, on Pages 123 to 144, in favour of third party.

17. That the third parties in whose favour the sale deeds were executed by the three brothers, namely Mr. Sudhir Gupta, Mr. Manish Gupta, and Mr. Nakul Gupta, i.e., Respondent No. 6, have further sold/transferred their rights, title, and interest in favor of other persons/ parties, details whereof are available on <https://bhulekh.uk.gov.in/>.

18. That the Respondent No. 6 is filing the revenue records for Khata Nos. 27, 125, and 126 with this Hon'ble Tribunal, as available on <https://bhulekh.uk.gov.in/>, so that the real controversy can be determined by this Hon'ble Tribunal. True Copy of the Revenue Record for Khata No. 27 is annexed herewith as Annexure-R3. True Copy of the Revenue Record for Khata No. 125 is annexed herewith as Annexure-R4. True Copy of the Revenue Record for Khata No. 126 is annexed herewith as Annexure-R5.

19. That there is no attempt by Respondent No. 6 to fell any trees and almost the entire land in question has been sold by Mr. Sudhir Gupta, Mr. Manish Gupta, and Mr. Nakul Gupta, i.e., Respondent No. 6, through registered sale deeds, and therefore, this Hon'ble Tribunal ought to dismiss the present application at-least qua the Respondent No. 6.

20. That the Respondent No. 6 became aware of the existing dispute only when the notice of the present application was served upon Respondent No. 6 in terms of the order dated 25.04.2024, passed by this Hon'ble Tribunal.”

30. An additional reply dated 23.09.2024 has also been filed by respondent 6 stating that an agreement to sale was executed on 02.07.2022 between respondent 6 as second party and Shakti Prakash Agarwal as first party for sale and transfer of approximately 5.642 hectares (13.941 acres of land) situated in Khata No. 27, 125 and 126, Village Chandpur, Kashipur, Uttarakhand. He has further given details of various sale deeds executed from time to time. We find it appropriate to reproduce para 2 to 15 of above reply as under:

"2. That an Agreement to Sell dated 02.07.2022 was entered into and executed between Respondent No. 6, as the Second Party, and Mr. Shakti Prakash Aggarwal, as the First Party, for the sale and transfer of approximately 5.642 hectares or 13.941 acres of land situated in Khata Nos. 27, 125, and 126, Village Chandpur, Kashipur, Uttarakhand. True Copy of the Agreement to Sell dated 02.07.2022, is annexed herewith as Annexure-R1.

3. 1 That in terms of this Agreement to Sell dated 02.07.2022, it was specifically and unambiguously admitted, acknowledged, and undertaken by Mr. Shakti Prakash Aggarwal that the felling of trees on the land in question shall be the sole and absolute responsibility of Mr. Shakti Prakash Aggarwal without the involvement of Respondent No. 6 in any manner whatsoever. Clause 2 of the Agreement to Sell dated 02.07.2022 is reproduced hereunder for the kind convenience and ready reference of this Hon'ble Court:

"2. Tree cutting process will be start from 15-July-2022 at the responsibility of First Party and in case any difficulty in the process will be as per the schedule.

4. That similarly, Clause 5 of the Agreement to Sell dated 02.07.2022 is reproduced hereunder for kind convenience and ready reference of this Hon'ble Court:

"5. Tree cutting process is sole responsibility of Shakti Prakash Aggarwal and amount raise or received will be part of S.PA. Whether tree cut or not the deal will be complited (completed) as per schdul (schedule) written above."

**emphasis supplied.*

5. That the Agreement to Sell, dated 02.07.2022, is an entirely handwritten document in the handwriting of Mr. Shakti Prakash Aggarwal, i.e., the purchaser of the land in question from Respondent No. 6.



6. That the physical possession of the entire land, measuring approximately 5.642 hectares or 13.941 acres, was handed over by Respondent No. 6 to Mr. Shakti Prakash Aggarwal on 02.07.2022, upon the execution of the Agreement to Sell dated 02.07.2022.
7. That Respondent No. 6 sold all his rights, titles, and interests in Khata Nos. 27 and 125, in land having an area of approximately 4.499 hectares, in favor of the purchaser, Mr. Shakti Prakash Aggarwal, as well as the purchaser's nominees, in the following manner:
- (i) Sale Deed dated 30.06.2022, executed jointly in favour of Mr. Sachin Agarwal, Mr. Komal Agarwal, Mr. Surendera Kumar Agrawal, and Mr. Shakti Prakash Agarwal, having Mobile Nos. +91-9837048818 and +91-9837248818, for land admeasuring 0.194 hectare, bearing Document No. 5790;
 - (ii) Sale Deed dated 21.04.2023, executed in favour of Mr. Satyam Agarwal, having Mobile No. +91-8859788888, for land admeasuring 0.470 hectare, bearing Document No. 2099;
 - (iii) Sale Deed dated 21.04.2023, executed in favour of Mr. Vikas Arora, having Mobile No. +91-9837088555, for land admeasuring 0.460 hectare, bearing Document No. 2100;
 - (iv) Sale Deed dated 21.04.2023, executed in favour of Mr. Sanjeev Sharma, for land admeasuring 0.230 hectare, bearing Document No. 2101;
 - (v) Sale Deed dated 21.04.2023, executed in favour of Mr. Siddhant Goel, having Mobile No. +91-8006953179, for land admeasuring 0.261 hectare, bearing Document No. 2102;
 - (vi) Sale Deed dated 27.06.2023, executed in favour of Mr. Ankur Agarwal, for land admeasuring 0.121 hectare, bearing Document No. 4973;
 - (vii) Sale Deed dated 16.09.2023, executed in favour of Mr. Preetam Singh, for land admeasuring 0.327 hectare, bearing Document No. 7655;
 - (viii) Sale Deed dated 16.09.2023, executed in favour of Mr. Sanjay Kumar Maheshwari, for land admeasuring 0.177 hectare, bearing Document No. 7656;
 - (ix) Sale Deed dated 16.09.2023, executed in favour of Mr. Rizwan Ali, having Mobile No. +91-9756440205, for land admeasuring 0.149 hectare, bearing Document No. 7657;
 - (x) Sale Deed dated 16.09.2023, executed in favour of Mr. Ram Kishor, for land admeasuring 0.093 hectare, bearing Document No. 7658;
Kailash Chandra Tiwari, for land admeasuring 0.093 hectare, bearing Document No. 7659;

- (xii) Sale Deed dated 22.12.2023, executed in favour of Mr. Gaurav Goyal, for land admeasuring 0.143 hectare, bearing Document No. 10746;
- (xiii) Sale Deed dated 22.12.2023, executed in favour of Mr. Gaurav Goyal, for land admeasuring 0.143 hectare, bearing Document No. 10747;
- (xiv) Sale Deed dated 22.12.2023, executed in favour of Ashiana Habitat Solutions Pvt. Ltd., having Mobile Nos. +91-8077563207 and +91-9837064383, for land admeasuring 0.181 hectare, bearing Document No. 10748;
- (xv) Sale Deed dated 22.12.2023, executed in favour of Mr. Sachin Kumar Agarwal, for land admeasuring 0.465 hectare, bearing Document No. 10757;
- (xvi) Sale Deed dated 22.12.2023, executed in favour of Mr. Rakesh Chand Goyal, for land admeasuring 0.125 hectare, bearing Document No. 10768;
- (xvii) Sale Deed dated 22.12.2023, executed in favour of Mr. Siddhant Goel, having Mobile No. +91-8006953179, for land admeasuring 0.263 hectare, bearing Document No. 10779;
- (xviii) Sale Deed dated 21.02.2024, executed in favour of Mr. Sanjeev Sharma, for land admeasuring 0.100 hectare, bearing Document No. 1831;
- (xix) Sale Deed dated 21.02.2024, executed in favour of Mr. Gulshan Kumar, for land admeasuring 0.099 hectare, bearing Document No. 1833;
- (xx) Sale Deed dated 21.02.2024, executed in favour of Ms. Swarn Devi, acting through her son, Mr. Rajkumar, for land admeasuring 0.051 hectare, bearing Document No. 1839; Sneh Rawat, for land admeasuring 0.063 hectare, bearing Document No. 1840; and
- (xxii) Sale Deed dated 21.02.2024, executed in favour of Ms. Chunni Devi, acting through her son, Mr. Shakti Prakash Aggarwal, having Mobile Nos. +91- 9837048818 and +91-9837248818, for land admeasuring 0.475 hectare, bearing Document No. 1841.
8. That the particulars of the afore-stated documents of transfer of title by Respondent No. 6 are available on the website <https://online.eregistrationukgov.in/>. The original records of the afore-stated sale deeds are in the possession of the respective purchasers or Mr. Shakti Prakash Aggarwal.
9. That an area of approximately 1.143 hectares, situated in Khata Nos. 27, 125, and 126, remains to be formally conveyed by Respondent No. 6 to Mr. Shakti Prakash Aggarwal or his nominees through the execution and registration of sale deeds, in accordance with the Agreement. to Sell dated 02.07.2022. However, this entire remaining area of approximately 1.143 hectares has been in the physical possession of Mr. Shakti



Prakash Aggarwal from the date of the execution of the Agreement to Sell, i.e., 02.07.2022,

10. *That since the land in question was recorded in the name of Respondent No. 6 in the records of the Board of Revenue, Uttarakhand, Respondent No. 6, at the request of Mr. Shakti Prakash Aggarwal, submitted two applications dated 08.08.2022, to the Chief Horticulture Officer, Udham Singh Nagar, Uttarakhand, for permission to fell only old and decaying trees at Khata Nos. 27 and 125. However, the entire process of following up on the two applications dated 08.08.2022 with the Office of the Chief Horticulture Officer, Udham Singh Nagar, Uttarakhand, as well as the felling of old and decaying trees in accordance with the permission granted. by the Chief Horticulture Officer, Udham Singh Nagar, Uttarakhand, was carried out by Mr. Shakti Prakash Aggarwal, in terms of the Agreement to Sell dated 02.07.2022.*
11. *That aside from the aforementioned two applications dated 08.08.2022 for felling old and decaying trees, no other application or representation has been submitted by Respondent No. 6 to any authority or department in any capacity whatsoever.*
12. *That the Respondent No. 6 has already filed the entire revenue records for Khata Nos. 27, 125, and 126 with this Hon'ble Tribunal, along with his Reply dated 22.08.2024, available on <https://bhulekh.uk.gov.in/>, in support of his case that the purchasers, in whose names the land in question was transferred by Respondent No. 6, have been and continue to sell the land in question after carrying out development activities there for commercial gains.*
13. *That the Status Report filed by the Chief Horticulture Officer of Udham Singh Nagar, Uttarakhand, before this Hon'ble Tribunal, in Annexure J, clearly records the attendance of the purchasers of the land in question at the time of the joint inspection carried out on 26.09.2023, for the purpose of counting trees. The Joint Inspection Report of the Joint Committee, filed before this Hon'ble Tribunal in Annexures 1-2, clearly records the attendance of the purchasers of the land in question during the joint inspections carried out on 16.04.2024, 08.05.2024, and 10.05.2024, for the purpose of counting trees. In the entire gamut of facts and the documents produced before this Hon'ble Court, it can be sufficiently seen that it is the purchasers themselves who are in management and control of the entire exercise of felling trees.*
14. *That at no point in time has there been any attempt by Respondent No. 6 to fell any trees, except for applying for permission to fell old and decaying trees. This is sufficiently*

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evidenced by the records filed by Respondent No. 6 before this Hon'ble Tribunal in support of his case.

15. *That the Respondent No. 6 only became aware of the existing dispute, as well as the felling of trees beyond the permissions granted by the Chief Horticulture Officer, Udham Singh Nagar, Uttarakhand, when the notice of the present application was ordered to be served upon Respondent No. 6 by this Hon'ble Tribunal. Mr. Shakti Prakash Aggarwal reached out to Respondent No. 6 and informed him that this Hon'ble Tribunal had taken cognizance of the Complaint filed by the Complainant."*

31. On behalf of Forest Department, Sub-Divisional Forest Officer, Jaspur, Nainital, Uttarakhand has submitted an affidavit dated 19.10.2024 stating that initially it was discovered that against permission granted for felling of 150 trees, 238 trees were cut and thus a fine of Rs.4.40 lakhs was imposed and recovered. Subsequently, inspection was carried out by Joint Committee pursuant to Tribunal's order and 176 trees were found to have been cut illegally. Therefore, vide letter dated 23.09.2024, Sudhir Gupta and Nakul Kumar Gupta were informed that a Forest Case No. 3 of 2024-25 has been registered against them and they are also liable to pay additional compensation for 176 trees which they should deposit.

32. In reply thereto, one Siddhant Goel, representative of Nakul Kumar Gupta has submitted a letter dated 26.09.2024 stating that against 176 trees which were not found on site, 165 trees were planted afresh, whereof 48 have dried up and again 11 were planted. Therefore, against 176 trees, 117 trees were planted which are alive and 59 trees which are less in number, for the same, he is ready to pay due compensation/penalty.

33. In furtherance of above letter dated 26.09.2024, Divisional Forest Officer, Jaspur, during course of enquiry, required Sudhir Gupta and Nakul Kumar Gupta i.e., respondents 6 and 7 to give following information about 165 trees:



“175 वृक्षों में से 165 वृक्षों को स्थापित किया गया है तथा 48 वृक्ष सूख गये एवं 11 वृक्ष कम पाये गये आप 176 वृक्षों में से मात्र 59 वृक्षों (48 सूखे वृक्ष तथा 11 वृक्ष कम पाये गये) का मुआवजा जमा करने को तैयार है। आप 165 वृक्षों के सम्बन्ध में अवगत कराये कि:-

1. आपके द्वारा 165 वृक्षों को किस शासनादेश / नियमावली के तहत स्थापित किया गया है।
2. आपके द्वारा 165 वृक्षों को स्थापित करने से पूर्व किरा विभाग से अनापत्ति प्रमाण पत्र लिया था।
3. आपके द्वारा 165 वृक्षों को जिन स्थानों में स्थापित किया गया है उक्त क्षेत्र से प्रमाण पत्र संलग्न नहीं किये गये है।
4. वर्तमान में 165 वृक्षों की स्थिति क्या है?”

English Translation by Tribunal:

“Out of 175 trees, 165 trees have been planted and 48 trees have dried up and 11 trees were found missing. You are ready to deposit compensation for only 59 trees out of 176 trees (48 dried up and 11 trees were found missing). Please inform about the 165 trees:-

1. Under which government order/rules have you planted the 165 trees?
2. Before planting the 165 trees, you had taken a no objection certificate from the Kira Department.
3. The certificates from the places where you have planted the 165 trees have not been attached.
4. What is the current status of the 165 trees?”

34. A further additional affidavit dated 19.10.2024 has been filed on behalf of respondent 6 wherein he has placed on record copies of sale deeds, 24 in number, which were executed in the name of different persons/parties, as under:

| Sr. No. | Date of Sale Deed | Person in whose favor Sale Deed was executed |
|---------|-------------------|---|
| 1. | 30.06.2022 | Mr. Sachin Agarwal, Mr. Komal Agarwal, Mr. Surendra Kumar Agarwal, and Mr. Shakti Prakash Agarwal |
| 2. | 30.06.2022 | Mr. Sachin Agarwal, Mr. Komal Agarwal, Mr. Surendra Kumar Agarwal, and Mr. Shakti Prakash Agarwal |

| | | |
|-----|------------|--|
| 3. | 30.06.2022 | Mr. Sachin Agarwal, Mr. Komal Agarwal, Mr. Surendera Kumar Agrawal, and Mr. Shakti Prakash Agarwal |
| 4. | 21.04.2023 | Mr. Satyam Agarwal |
| 5. | 21.04.2023 | Mr. Vikas Arora |
| 6. | 21.04.2023 | Mr. Sanjeev Sharma |
| 7. | 21.04.2023 | Mr. Siddhant Goel |
| 8. | 27.06.2023 | Mr. Ankur Agarwal |
| 9. | 16.09.2023 | Mr. Preetam Singh |
| 10. | 16.09.2023 | Sanjay Kumar Maheshwari |
| 11. | 16.09.2023 | Mr. Rizwan Ali |
| 12. | 16.09.2023 | Mr. Ram Kishor |
| 13. | 16.09.2023 | Mr. Kailash Chandra Tiwari |
| 14. | 22.12.2023 | Mr. Gaurav Goyal |
| 15. | 22.12.2023 | Mr. Gaurav Goyal |
| 16. | 22.12.2023 | Ashiana Habitat Solutions Pvt. Ltd. |
| 17. | 22.12.2023 | Mr. Sachin Kumar Agarwal |
| 18. | 22.12.2023 | Mr. Rakesh Chand Goyal |
| 19. | 22.12.2023 | Mr. Siddhant Goel |
| 20. | 21.02.2024 | Mr. Sanjeev Shanna |
| 21. | 21.02.2024 | Mr. Gulshan Kumar |
| 22. | 21.02.2024 | Ms. Swam Devi |
| 23. | 21.02.2024 | Ms. Sneh Rawat |
| 24. | 21.02.2024 | Ms. Chunni Devi, acting through her son, Mr. Shakti Prakash Aggarwal |

35. **IA 561 of 2024** has been filed by respondent 6, requesting for impleadment of subsequent purchasers of land whose details are given in Para 18 in view of the fact that subsequently land has been transferred by sale to those persons and therefore for payment of compensation/penalty they are also, responsible. Names of persons sought to be impleaded, mentioned in para 18 of 1A, are as under:

“18.1. Mr. Sachin Agarwal, S/o. Mr. Anil Kumar Agarwal, R/o. Kalash Mandap Road, Kashipur, Uttarakhand;

18.2. Mr. Komal Agarwal, S/o. Mr. Surendra Kumar Agarwal, R/o. Ramnagar Road, Kashipur, Uttarakhand, having Mobile No. 9319957001;

18.3. Mr. Surendra Kumar Agarwal, S/o. Mr. Amarnath, R/o. Ramnagar Road, Kashipur, Uttarakhand, having Mobile No. 9319957001;

18.4. Mr. Shakti Prakash Agarwal, S/o. Mr. Mool Prakash Agarwal, R/o. Niwasnagar, Kashipur, District Udham Singh Nagar, Uttarakhand, also at: Kalyan Jewelers, Ramnagar Road, Kashipur, Uttarakhand, having Mobile No: +91-9837048818;

18.5. Mr. Satyam Agarwal, S/o. Late Mr. Ajay Kumar Agarwal, R/o. Mouza Singhan, Kashipur, District Udham Singh Nagar, Uttarakhand, also at: Devasthali, Ram Nagar Road, Near Kela Modh, Pratappur, Kashipur, having Mobile No: +91-8859788888;

18.6. Mr. Vikas Arora, S/o. Late Mr. Kundan Lal, R/o. R. K. Puram, Kachnalgaji, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand, having Mobile No: +91- 9837088555;

18.7. Mr. Sanjeev Sharma, S/o. Mr. Hariom Sharma, R/o. White House, Ramnagar Road, Village Laxmipur Lachhi, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.8. Mr. Siddhant Goel, S/o. Mr. Ramchandra Agarwal, R/o. Bajpur Road, behind Fire Brigade Station, Kashipur, District Udham Singh Nagar, Uttarakhand, having Mobile No: +91-8006953179;

18.9. Mr. Ankur Agarwal, S/o. Mr. Sunil Kumar Agarwal, R/o. Shivanagar, Girital, Kashipur, District Udham Singh Nagar, Uttarakhand;

18.10. Mr. Preetam Singh, S/o. Mr. Daljeet Singh, R/o. Village Jurka, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.11. Mr. Sanjay Kumar Maheshwari, S/o. Mr. Ram Prakash Maheshwari, R/o. Old Awas Vikas, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.12. Mr. Rizwan Ali, S/o. Mr. Ali Mohammed, R/o. Mouza Fatehullaganj, Near Dhobian Masjid, Thakurdwara, District Muradabad, Uttar Pradesh, Mobile No: +91- 9756440205

18.13. Mr. Ram Kishor, S/o. Mr. Jhabra Singh, R/o. Village Gajera Aalam, Tehsil Thakurdwara, District Muradabad, Uttar Pradesh

18.14. Mr. Kailash Chandra Tiwari, S/o. Mr. Mahesh Chandra Tiwari, R/o. Village Chandpur, Gopipura, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.15. Mr. Gaurav Goyal, S/o. Mr. Madan Mohan Goyal, R/o. Near Doctor Line, D.N.A. Market, Mouza Rahamkhani, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.16. Ashiana Habitat Solutions Pvt. Ltd., at: Bazpur Road, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand, through its Director, Mr. Mohammed Javed, S/o. Mr. Mohammed Yamin, R/o. Mouza Alikhan, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

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18.17.Mr. Sachin Kumar Agarwal, S/o. Mr. Anil Kumar Agarwal, R/o. Mouza Gautam Nagar, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.18.Mr. Rakesh Chand Goyal, S/o. Mr. Yadav Chand Goyal, R/o. 5, Shimla Bypass Road, Near Government Polytechnic, Himjyoti Enclave, Sevla Kala, Majra, Dehradun, Uttarakhand;

18.19.Mr. Gulshan Kumar, S/o. Mr. Nattha Singh, R/o. Village Kundeswari, Kharamasa, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.20.Ms. Swarn Devi, W/o. Mr. Ramesh Lala, R/o. Village Kharamasa, Tehsil Kashipur, District Udham Singh Nagar, Uttarakhand;

18.21.Ms. Sneh Rawat, W/o. Mr. Ajit Singh, R/o. Nambardarpuri, Pipalsana, District Nainital, Uttarakhand; and

18.22.Ms. Chunni Devi, W/o. Mool Prakash Agarwal, R/o. Niwasnagar, Kashipur, District Udham Singh Nagar, Uttarakhand, also at: Kalyan Jewelers, Ramnagar Road, Kashipur, Uttarakhand, having Mobile No: +91- 9837048818.”

36. With regard to action to be taken by UKPCB for assessment and computation of environmental compensation for illegal felling of trees causing damage to environment, initially stand was taken that there is no mechanism available with UKPCB to make such assessment in respect of illegal felling of trees but later, stand was changed and on the direction of Tribunal to prepare a mechanism/methodology for assessment and computation of Environmental Compensation on account of illegal felling of trees causing damage to environment, the mechanism has been prepared and placed before Tribunal along with status report filed vide email dated 12.11.2024. We find it appropriate to reproduce from report of “Committee on establishing an Environmental Compensation framework for illegal felling of trees”, following relevant extract:

“The formula for Environment compensation is as follows: -

Environment Compensation = (Cost Factor x Trunk area of Tree x Species Factor x Condition Factor x Location Factor)-Royalty Value

The species, condition, and location ratings are considered to range from 0.5 to 1.0.

A. Description of Various Factors in the Environment Compensation Formula: -

| Factors | Description |
|--|---|
| Trunk area | <p>The cross-section area of the tree trunk measured at breast height.</p> <p>Girth at Breast Height (GBH) (in cm) = $27rr$</p> <p>Diameter (D) = $2r = \text{GBH}/\text{Pie}$</p> <p>Trunk Area (in cm') = $7r(D/2)^2 = 7rD^2/4$</p> <p>Where, r is the radius of the tree at GBH in cm.</p> <p>Note: If the GBH of the tree is not reported, then the average GBH of a mature tree of the respective species shall be taken in to consideration for calculation of Trunk Area of the tree. In case the GBH/diameter is not available then the average GBH/diameter of the respective species shall be taken in to account.</p> |
| Cost Factor (Sapling Cost + Maintenance Cost) | <p>The full cost (estimated per unit of the cross-sectional area of the trunk, i.e., per square centimeter) of a newly planted sapling that is at least 1.80 meters tall. Its derivation has two components: the nursery gate price and the planting cost (transportation, planting, materials, manure, fertilizers, immediate care, and management costs, but not aftercare). Thus, Cost factor is sum of sapling cost and Cost of Transportation/planting etc.</p> <p>Note: Department of Forest as well as Department of Horticulture is used to notify the sapling price from time to time. Such value of a sampling shall be taken in to consideration. If, in any case, there is no notified price, then the market price of such sapling in that area where the tree is felt shall be taken in to consideration. In General cost of transportation/planting the sapling shall be taken as Rs100/-</p> <p>For example, a sapling of mango tree costs Rs 80/- so Cost Factor shall be sum of Cost of sapling Rs 80/- and planting cost Rs. 100/- i.e. Rs 180/-</p> |
| Species Factor | <p>Mountains are among the most vulnerable environments; they are also a rich repository of biodiversity (Kumar and Sharma, 2016). The Indian Himalayan Region (IHR), one of the most important mountain ecosystems of the world, supports unique natural and cultural diversity, manifested in the 18,440 plant species, including 1,748 and 675 species of medicinal importance and wild edibles, respectively (Negi and Gaur, 1994). In a recent study of Western Himalayas (Bhatt, 2020) it reveals that the more diverse plant communities support more diverse fauna communities, both of which exist at mid-altitudinal zones of Himalaya.</p> |

| | |
|------------------|---|
| | <p>Species factor is thus based on the spatial distribution of species (altitude wise) in Uttarakhand clubbed with the priorities of the species. The priority of the species is divided in three classes as Low, Moderate and High. The details of priority of species are provided as Annexure-I. Score card for the factor is reported between 0.5 to 1.0 and detail is provided in next section of the report.</p> <p>Weightage of the species is higher if the tree is in higher altitude. Weightage of different species is assigned based on the different types and values of the tree.</p> |
| Condition Factor | <p>It is an assigned value between 0.5 to 1.0 based on the condition of the tree which considers factors such as wounds, decay, storm damage, <u>insect or disease damage, and form. It is based on the observation. In case, the felt tree is not available, an average of 0.75 would be considered. Score card for the factor is reported in detail in next section of the report.</u></p> |
| Location Factor | <p>It is based on the functional and aesthetic contribution that a tree makes to a site and the importance of the location in the context of the broader community. The location value lies between 0.5 and 1.0. Score card for the factor is reported in detail in next section of the report.</p> |
| Royalty Value | <p>For every tree which is felt, the Government has levied an amount as a royalty. The amount of such Royalty is proposed to be deducted and the final value so obtained will be termed as Environment Compensation.</p> <p>This is to clarify that the respective departments also obtained penalty for illegal felling of trees, which is higher than the Royalty value, but in the environment compensation regime only the Royalty value will be considered.</p> |

B. Indexing of Various Factors

B.1 Score Chart for Species Factor

Considering the higher ecological importance of trees located at higher altitudes the Species classification is proposed based on the spatial distribution of species (altitude wise) in Uttarakhand clubbed with the priorities the species in Low, Moderate and High. Weightage of the species is higher if the tree is in higher altitude. An indicative table containing weightage of various tree species found in Uttarakhand is given under Annexure-I. Score chart for species factor is as under: -

| Areal Weightage | High | Moderate | Low |
|---|------|----------|------|
| Cool temperate-Subalpine (2501-3300m asl) | 1.0 | 0.85 | 0.75 |
| Warm temperate to Subalpine (2501-3000m asl) | 0.90 | 0.80 | 0.70 |
| Sub-Tropical to Cool temperate (1501-2500m asl) | 0.80 | 0.70 | 0.60 |

| | | | |
|-----------------------------|------|------|------|
| Tropical (400-1500m asl) | 0.75 | 0.60 | 0.50 |
|-----------------------------|------|------|------|

B.2 Score Chart for Condition Factor

It is an assigned value between 0.5 and 1 based on the condition of the tree which considers factors such as wounds, decay, storm damage, insect or disease damage, and form. For simplicity's sake, a tree is usually placed in one of five classes whose value is expressed as a decimal in the formula. Following values are assigned based on condition of tree: -

| Class | Tree Health Characteristics | Score |
|-----------|---|-------|
| Excellent | Root plate is undisturbed, trunk is sound and solid. Excellent vigour with well-formed canopy | 1.0 |
| Good | Moderate damage and defects in root plate, trunk and canopy | 0.75 |
| Poor | Major (more than 50%) damage and defects in root plate, trunk and canopy which would be very difficult to restore | 0.5 |

Note: If a felt tree is not found at site, then the condition, factor shall be taken as Good. If tree is found felt and it is difficult to find the condition, the decision will be taken based on surrounding habitat and the time series of satellite image like google images etc.

B.3 Score Chart for Location Factor

It is based on the functional and aesthetic contribution that a tree makes to a site and the importance of the location in the context of the broader community.

| Site location | Score |
|---|-------|
| Tree located in wild life sanctuaries, national Parks, Conservation Reserve, RF/PF, Eco sensitive Zone, Van Panchayat | 1.0 |
| Tree located in Nagar Nigam Area | 0.85 |
| Tree located in Nagar palika Area | 0.75 |
| Tree Located in Nagar Panchayat Area | 0.65 |
| Location in rural landscapes. Higher score to be given to trees 0.50 based on their proximity to commercial areas | |

Note: If a tree is in the area designated under class Good and in Nagar panchayat Area and of religious importance then the score of one scale up category for calculation of Environment compensation. For banyan tree is in good class (in Nagar Panchayat area) and designated as religious importance of local community then the location factor shall be considered as assigned for Nagar Palika Area i.e. 0.75 instead of 0.65.

B.4 Royally Value

For every tree which is felt, the Government has levied an amount as a royalty. The amount of such Royalty is proposed to be deducted and the final value so obtained will be termed as Environment Compensation. Royalty value is notified per unit volume of the tree and the volume of the tree shall be respective departments also obtained penalty for illegal felling of trees, which is higher than the Royalty value, but in the environment compensation regime only the Royalty value will be considered.

Illustrative example for calculation of Environment Compensation of different type of trees in different conditions is placed at Annexure-II.

C. Disclaimer

- This formula is not applicable on felling of such trees which are felt by obtaining requisite permission from the competent authorities.
- This formula is also not applicable to the species which are under exemption category as notified by Government from time to time.”

37. Learned Counsel for UKPCB stated that initially only Forest Department used to charge penalty for felling of trees in non-forest area without appropriate permission and there was no methodology available for imposition of environmental compensation by Pollution Control Board. Since there was no specific provision, hence, environmental compensation was never imposed by UKPCB but now in the light of the observations made by this Tribunal, the methodology for computation of environmental compensation for the damage caused to environment due to illegal felling of trees has been prepared and would be acted upon.

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38. We intend to clarify at this stage that an illegality committed in felling of a tree in violation of the laws which requires permission from the Competent Authority before felling of trees, and penalty imposed for such violation, is not something akin to the loss caused to the environment due to illegal felling of trees for which environmental compensation is to be determined and leviable by application of principle of 'Polluters Pay'. Further, deterioration of environmental compensation is not within the Province of the Forest Officers or any district authority but within the power and ambit of concerned Pollution Control Board/Committee.

39. The purpose of imposition of fine by the forest authorities is for non-compliance of the provisions of Statutes which require their permission if any operating or enforced in the area concerned and/or to charge penalty upon the violator for the property in the trees which is/are cut illegally provided trees are on public land. This later aspect does not cover the trees which are cut on private land.

40. However, the purpose of environmental compensation is totally different. Environmental compensation is imposed when an act or omission on the part of a person has caused any loss/damage to the environment which requires its remediation. This would include loss to the environment caused due to illegal cutting of trees, whether on forest land or on non-forest land.

41. Tribunal has repeatedly held that assessment/computation of environmental compensation for restoration of the damaged environment should take care of damage caused to the environment, to the community, if any, and should also be preventive, deterrent and to some extent, must have an element of being punitive. The idea is not only for restoration/remediation or to mitigate damage/loss to environment, but

also to discourage people/proponents from indulging in the activities or carrying out their affairs in such a manner so as to cause damage/loss to environment. The imposition of environmental compensation is in furtherance of the application of principle of 'Polluter Pays'. In the context of this Tribunal, NGT Act, 2010 vide Section 20 itself recognizes application of the said principle but for the Statutory Authorities who have power to issue statutory directions for enforcement of environmental laws, principle of 'Polluter Pays' is available being integral part of environmental jurisprudence. The power of Statutory Authorities to levy Environmental Compensation by application of 'Polluter Pays' principle is available in the provisions of environmental laws containing provisions to issue direction like Section 33A of Water act, 1974, Section 5 of EP Act, 1986, etc.

42. When environment is damaged on account of act of someone's illegal activity in violation of environmental laws and norms, such violator is liable to share the cost which may be incurred for remediation and rejuvenation of damaged environment. This has been recognized as principle of 'Polluter Pays'.

43. This Principle was recognized as part of environmental law in India in ***Indian Council for Enviro-Legal Action vs. Union of India, (1996) 3 SCC 212***. Certain industries producing assets were dumping their waste. Even untreated waste water was allowed to flow freely polluting atmosphere and sub-terrain supply of water which ultimately caused darkening and dirtiness of wells and the streams water rendering it unfit for human consumption. Certain environmentalists' organizations broadly alleging severe damage to villager's health, filed a Writ petition as PIL in 1989 before Supreme Court. By that time, some of the units were already closed. Referring to Article 48-A in Directive Principles of State Policy and 51-A in the Fundamental duties of citizens, Supreme Court observed that

said provisions say that State shall endeavour to protect and improve environment and to safeguard the forest and wildlife of the country. One of the fundamental duties of citizens is to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creature. Where a **Proponent has established its commercial unit and operate contrary to law flouting norms provided by law, Statutory Regulator is bound to act and if it fails, a judicial forum can direct it to act in accordance with law.**

44. Referring to Oleum Gas leak case, i.e., *M.C. Mehta vs. Union of India, (1987) 1 SCC 395*, Court observed in para 58 that the constitution bench held that **enterprise must be held strictly liable for causing such harm as a part of social cost of carrying on the hazardous or inherently dangerous activity.** Hazardous or inherently harmful activities for private profits can be tolerated only on the condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of carrying on of such hazardous or inherently dangerous activity, regardless of whether it is carried on carefully or not.

45. Court also referred to its earlier decision in *Indian Council for Enviro Legal action vs. Union of India, (1995) 3 SCC 77*, wherein concerned Pollution Control Board identified about 22 industries responsible for causing pollution by discharge of their effluent and a direction was issued by Court observing that they were responsible to compensate the farmers. It was the duty of State Government to ensure that this amount was recovered from the industries and paid to the farmers. In para 67 of the judgment, Court said that the **question of liability of respondent units to defray the costs of remedial measures can also be looked into from another angle which has now come to be**

accepted universally as a sound principle, for example, 'Polluter Pays' principle. On this aspect, Court further observed as under:

"67. ...The Polluter Pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution. Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'Polluter Pays' principle was promoted by the Organization for Economic Co-operation and Development (OECD) during the 1970s when there was great public interest in environmental issues. During this time there were demands on government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialized society. Since then, there has been considerable discussion of the nature of the polluter pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactorily agreed.

*Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme ([1987] OJ C 328/ 1) makes it clear that **the cost of preventing and eliminating nuisances must in principle be borne by the polluter**', and the polluter pays principle has now been incorporated into the European Community Treaty as part of the new Articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play a part in all the policies of the Community, and that action is to be based on three principles: the need for preventative action; the need for environmental damage to be rectified at source; and that the polluter should pay."*

46. Court further said that **according to the above principle of 'Polluter Pays', responsibility for repairing the damage is that of the offending industry.** Sections 3 and 5 of EP Act, 1986 empower Central Government to give directions and take measures for giving effect to this principle. Court further said:

"...In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out

the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment [Protection] Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, R.P.C.B. or such other agency or authority, as they think fit."

47. The above principle has been followed in **Vellore Citizen Welfare Forum vs. Union of India, 1996 (5) SCC 647**. In para 25, direction no. 2 reads as under:

2. The authority so constituted by the Central Government shall implement the "precautionary principle" and the "polluter pays" principle. The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

48. In **Bittu Sehgal and Another vs Union of India & Others, (2001) 9 SCC 181**, referring the earlier judgments, Supreme Court has said that 'Precautionary Principle' and 'Polluter Pays Principle' have been accepted as part of the law of the land.

49. In **Research Foundation for Science vs. Union of India & Ors., (2005) 13 SCC 186**, in para 26 and 29, Court, on 'Polluter Pays' Principle, has said as under:

"26. The liability of the importers to pay the amounts to be spent for destroying the goods in question cannot be doubted on applicability of precautionary principle and polluter-pays principle. These principles are part of the environmental law of India. There is constitutional mandate to protect and improve the environment. In order to fulfill the constitutional mandate various legislations have been enacted with attempt to solve the problem of environmental degradation.

29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case."

50. In **Karnataka Industrial Areas Development Board vs. C. Kenchappa & Others, (2006) 6 SCC 371**, principle of 'Polluter Pays' has been explained in detail referring to the earlier judgments in **Indian Council for Enviro-Legal Action vs. Union of India (supra)** and **Vellore Citizen Welfare Forum (supra)**.

51. So far as the cutting of trees is concerned, if a tree is illegally cut in a forest area, the provisions of FC Act, 1980 take care so far as the Forest Department is concerned but with regard to the damage to environment due to loss caused by removal of tree, environmental compensation has to be assessed by Statutory Regulator under the environmental laws. Similarly, in the case of non-forest area, different Provincial Legislations make laws to govern and regulate falling/removal of trees in given circumstances. There also, if felling of trees is illegal, for the damage caused to environment, environmental compensation has to be assessed and imposed by Statutory Regulators under the environmental laws.

52. In other words, it can be said that illegal cutting of a tree in a forest area or in non-forest area has equal damaging and adverse impact upon environment irrespective of the fact whether tree which has been removed was in forest area or in non-forest area. Therefore, for the purpose of application of environmental laws, considerations relevant for



environmental protection have to be taken into consideration and applied accordingly in both the cases i.e., where a damage is caused to tree(s) illegally, whether in forest area or non-forest area.

53. Felling/cutting of trees is commonly known as deforestation. It represents a critical environmental challenge with far-reaching consequences. The causes of cutting of trees may be many. For example, timber production, land clearing for agriculture, urban development and forest management. The reasons may be genuine but damage to environment is normally same or similar and therefore, while permitting cutting of trees, the principle of 'Sustainable Development' has to be kept into consideration and while there is illegal felling of trees, appropriate action includes application of 'Polluters Pay' principle, i.e. the polluter must pay for the damage caused to the environment for its restoration. There may be instances where felling of trees may be necessary for economic development or safety reasons. It is crucial to comprehend its implications for environment and essential role that trees play in maintaining ecological balance. A renowned environmentalist, Wangari Maathai once said *"it is the little things citizens do. That is what will make the difference. My little thing is planting trees"*.

54. The above quote encapsulates the importance of trees not only in combating climate change, but also in fostering biodiversity and supporting human well-being. Trees play a vital role in the ecosystem by offering numerous benefits that extend beyond their physical presence. They provide habitats and sustenance for a wide array of species, thereby support biodiversity. Trees absorb carbon dioxide from atmosphere and thereby help mitigation of climate change by reducing greenhouse gas levels.

55. According to a study published in 'Nature', forests are responsible for sequestering approximately 30% of global carbon emissions and this highlights their critical role in climate regulation. Trees influence water cycle by maintaining soil moisture, reduce runoff and prevent erosion. They act as natural sponges that absorb rainfall and release it slowly into environment thereby regulating stream flow and reduce flood risk. Trees improve air quality by filtering pollutants such as Sulfur Dioxide, Ammonia and Nitrogen Oxide. The extensive root system of trees stabilizes soil, prevents erosion and promotes nutrient cycle within ecosystems. Trees are crucial in regulating both local and global climates by influencing temperature and precipitation pattern. They serve as natural buffers against extreme weather events such as floods and droughts.

56. In brief, understanding importance of trees and recognizing impact of tree felling is essential for developing sustainable practices that balance human needs and environmental conservation. The importance and effect of trees on the environment of the ecology may be placed under the following heads:

(I) Habitat Loss and Biodiversity Decline

- (a) Impact on Species Diversity:** With more than 80% of terrestrial species found there, forests are hotspots for biodiversity. Habitat fragmentation brought on by tree loss can separate species populations and interfere with their mating habits. For example, in order to move and obtain food, huge creatures like tigers and elephants need to occupy large areas. These animals frequently have to relocate to smaller places where they are unable to flourish when forests are cut down.

- (b) **Ecosystem Services Interrupted:** Forests provide essential ecosystem services such as pollination, seed dispersal, and nutrient cycling. The loss of tree cover can disrupt these processes, leading to reduced agricultural productivity and compromised food security for animal kingdom that rely on these services.
- (c) **Extinction Risks:** The loss of habitat puts an estimated 1 million species in danger of going extinct, according to the International Union for Conservation of Nature (IUCN). Individual species are not the only ones impacted by this loss; entire ecosystems may become unstable. For instance, the loss of one pollinator species may have a domino effect on the capacity of other species to reproduce and obtain food.

(II) Soil Erosion and Degradation

- (a) **Soil Erosion Mechanisms:** By binding soil together, tree roots stop wind and water erosion. The soil becomes loose and more susceptible to erosion when trees are cut down. Significant land degradation can result from topsoil being washed away by heavy rains. In tropical areas with frequent heavy rainfall, this process is very severe.
- (b) **Increased Flooding Risks:** Deforested areas are more prone to flooding because there are fewer trees to absorb rainfall and slow down runoff. This increased runoff can lead to flash floods that devastate communities downstream and erode riverbanks.
- (c) **Extended Loss of Soil Fertility:** Additionally, the normal nutrition cycle is upset when trees are cut down. Organic matter and decomposing leaves add to soil fertility; in the absence of

trees, this organic input is greatly reduced. This can eventually result in bare terrain that is unfit for natural regeneration or cultivation.

(III) Climate Change and Carbon Emissions

- (a) **Role of Trees in Carbon Sequestration:** Trees play a critical role in sequestering carbon dioxide (CO₂) from the atmosphere through photosynthesis. When trees are cut down, not only are this carbon storage capacity lost, but the act of cutting down trees releases stored carbon back into the atmosphere.
- (b) **Global Warming Contribution:** Deforestation contributes significantly to global warming. The Food and Agriculture Organization (FAO) reports that deforestation accounts for approximately 10-15% of global greenhouse gas emissions. The release of carbon from felled trees exacerbates climate change, leading to more extreme weather events such as droughts, hurricanes, and heatwaves.
- (c) **Feedback Loops:** As climate change progresses due to increased greenhouse gas emissions from deforestation, it creates feedback loops that further threaten forests. For example, rising temperatures can lead to increased forest fires or pest infestations that further reduce tree cover.

(IV) Disruption of Water Cycles

- (a) **Transpiration Process:** Trees contribute significantly to local water cycles through transpiration—the process by which water is absorbed by roots from the soil and released as vapor through leaves. This process helps to regulate local humidity levels and precipitation patterns.

(b) **Altered Rainfall Patterns:** Deforestation can lead to reduced rainfall in previously forested areas due to decreased moisture release into the atmosphere. Studies have shown that regions experiencing deforestation often see a decline in annual precipitation levels.

(c) **Impact on Aquifers:** Forests play a crucial role in recharging aquifers by allowing rainwater to infiltrate the ground slowly. Without trees, rainwater runs off quickly rather than being absorbed into the soil, leading to lower groundwater levels and increased risks of drought during dry seasons.

(V) **Air Quality Deterioration**

(a) **Pollutant Absorption:** Trees improve air quality by absorbing pollutants such as sulfur dioxide (SO₂), ammonia (NH₃), nitrogen oxides (NO_x), and particulate matter (PM). They filter these pollutants from the air and release oxygen through photosynthesis.

(b) **Health Implications:** The removal of trees leads to poorer air quality in urban areas where pollution levels are already high due to industrial activities and vehicle emissions. Increased air pollution can exacerbate respiratory diseases such as asthma and bronchitis among urban populations.

(c) **Urban Heat Island Effect:** In urban areas, tree cover helps mitigate the urban heat island effect where cities become significantly warmer than surrounding rural areas due to human activities. The loss of trees contributes to higher



temperatures in cities, increasing energy consumption for cooling purposes and exacerbating heat-related health issues.

(VI) Socioeconomic Impacts

- (a) **Food Security Risks:** Deforestation can disrupt local food systems by reducing agricultural productivity due to soil degradation and altered water cycles. As forests are cleared for agriculture without sustainable practices in place, communities may face food insecurity as crop yields decline.
- (b) **The displacement of Native American communities:** Forests are essential to the livelihoods, culture, and identity of many indigenous groups. They are frequently displaced as a result of deforestation, which occurs when land is destroyed for urbanization or cultivation. Their way of life is in danger, and traditional knowledge about sustainable land management is being undermined by this displacement.
- (c) **The Impact on the Economy:** Although logging or land conversion for agriculture (such as palm oil plantations) may result in short-term financial rewards, deforestation frequently causes long-term financial losses because it reduces ecosystem services like flood protection and clean water supply.

57. The above discussion shows that trees are an essential part of our ecosystem. They provide oxygen, regulate climate and support biodiversity. While tree felling may be necessary for various reasons, like harvesting wood for construction, furniture, paper products and fuel, creating space for agricultural expansion, facilitating urban development and infrastructure projects, removing diseased or hazardous trees to prevent accidents, thinning forests to promote healthy growth, providing shelter

and food sources for wildlife, preventing spread of pests and diseases, but simultaneously it also cannot be ignored that the trees have significant environmental impact. Therefore, felling of trees wherever is regulated by statute must strictly follow the procedure prescribed in such Statutes and felling should be strictly controlled by such provisions. Wherever any permission for felling of trees is granted, the condition for reforestation should also be imposed so as to mitigate the damage as much as possible. But wherever felling of trees is not required, or felling does not follow the procedure prescribed in this Statute or is not in accordance with the Regulatory Statute or there is otherwise illegal felling of trees, punitive, prohibitive and compensatory regime must be implemented and applied so as to act as deterrent against felling of trees. The Regulatory measures may also contain provisions for imposition of fine for violation of the statutes with regard to felling of trees and also for realization of cost of timber/wood realizable by Forest Department or any other regulatory Authority under such provisions but with regard to damage caused to the environment due to illegal felling of trees, it is the responsibility of Authority who are under an obligation to take care of the environment to issue necessary directions which includes, application of 'Polluter Pays' principle by requiring the violator to pay environmental compensation.

58. The environmental compensation due to felling of trees illegally is not a component on account of illegal felling of trees without permission of the competent Authority or in violation of the statutes regulating felling of trees but for damage caused to the environment and the cost needed for its restoration which is required to be compensated by the violator by application of principle of 'Polluter Pays' which is well recognized in the jurisprudence of environment by the highest Court of the land.



59. It is not in dispute that the trees with which we are concerned in the present matter, were in a non-forest area and that too, on a private land. Cutting of such trees however is governed by a provincial statute which provides procedure and method in which a tree can be allowed to be cut by the owner or anyone else.

60. It is not disputed in the present case that in non-forest area, the process of felling of trees has to follow the law laid down in Uttar Pradesh Protection of Trees Act, 1976 (hereinafter referred to as '**UPPT Act, 1976**').

61. The above Statute presently, is applicable on State of Uttarakhand also as it is admitted by Learned Counsel for the parties.

62. Section 2 of UPPT Act, 1976 shows that it does not apply to the trees in "Reserved and Protected Forest"; in a Forest or Forest land in respect of which any notification under Indian Forest Act, 1927, as amended in its application to UP, is in force; and trees situate in Cantonment areas.

63. The term "**tree**" has been defined in Section 3(xi) as under:

"3.Definitions- In this Act, unless there is anything repugnant in the context:

(xi) "**Tree**" means any woody plant whose branches spring from and are supported upon a trunk or body and whose trunk or body is not less than five centimeter in diameter at height of thirty centimeters from the ground level and is not less than one meter in height from the ground level, and the expressions "timber trees" and "fruit trees" means respectively the trees of the species specified in Schedule I and Schedule II respectively; Provided that the State Government may by notifications add to or modify the Schedules;"

64. Section 4 imposes restriction on felling and removal of trees and says that except as provided in the Act or the Rules made thereunder, no person shall fell any tree standing on any land whether included in a holding or not; cut, remove or otherwise dispose of any tree other than a tree which

is completely dead and has fallen without the aid of human agency on any such land. It reads as under:

“4. Restriction on felling and removal of trees- Except as provided in this Act or the rules made there under, no person shall-

(a) fell any tree standing on any land, whether included in a holding or not;

(b) cut, remove or otherwise dispose of any tree other than a tree which is completely dead and has fallen without the aid of human agency on any such land.”

65. Procedure for permission to fell or remove trees is provided in Section 5, which reads as under:

“5. Procedure for permission to fell or remove trees- (1) Any person entitled to fell a standing tree or to cut, remove or otherwise dispose of a fallen tree, **may make an application to such officer in such form as may be notified by the State Government, for permission to fell such standing tree or to cut, remove or otherwise dispose of such fallen tree** and the officer to whom such application is made, shall, within twenty days after making such enquiry as he thinks fit, forward the application along with his report to the competent authority.

(2) The competent authority shall, within fifteen days from the date of receipt of the report under sub-section (1), grant or refuse the permission applied for;

Provided that the competent authority may, if he is not satisfied with the report made under sub-section (1), make such further enquiry as he thinks fit:

Provided further that such permission shall not be refused without affording the opportunity of hearing to the applicant;

Provided also that such permission shall not be refused if the tree constitutes danger to person or property:

Provided further that except in such areas as may be notified by the State Government in this behalf, such permission shall not be required for felling of any tree with a view to appropriating the wood or leaves thereof for bona fide use for purposes of fuel, fodder, agricultural implements or other domestic use:

Provided also that such immediate steps as are necessary to remove any obstruction or nuisance or to prevent any danger may be taken without such permission.

(3) Where the competent authority fails to take any decision under sub-section (2) within the time specified therefor, it shall be deemed that the permission applied for, has been granted.

(4) Every permission granted under this Act shall be subject to such conditions, including taking of security for ensuring regeneration of the area and replanting of trees or otherwise, as may be specified from time to time by the State Government by notification."

66. A perusal of Section 5 shows that the person entitled to fell or remove tree or otherwise disposal of a tree, may make an application to an officer notified by State Government for the permission to fell such standing tree or to cut, remove or otherwise dispose of such fallen tree. "Notified Officer" within 20 days, after making such enquiry as it thinks fit, shall forward the application along with its report to the "Competent Authority".

67. The term "**Competent Authority**" has been defined in Section 3(iii) as under:

"3. Definitions- *In this Act, unless there is anything repugnant in the context:*

*(iii) "**Competent authority**" means an **authority appointed by the State Government by notification to perform the duties and exercise the powers imposed or conferred upon a competent authority by this Act;** and different competent authorities may be appointed in respect of different classes of timber, fruit and other trees, and for different purposes;"*

68. Competent Authority, within 15 days from the date of receipt of the report from Notified Officer, shall grant or refuse permission applied for. If he is not satisfied with the report, may direct for further enquiry as it thinks fit, but permission shall not be refused without affording opportunity of hearing to the applicant.

69. Where Competent Authority fails to take any decision within 15 days from the date of receipt of report; permission shall be deemed to have been granted.

70. While granting permission, Competent Authority may impose such conditions including taking of security for ensuring re-generation of the area and re-planting of trees or otherwise as may be specified from time to time by State Government by notification.

71. Section 7 imposes an obligation upon the person who has been granted permission to fell, cut, remove or disposal of a tree, to plant and tend two trees in place of every tree in the area from where such tree has been felled, cut, removed or disposed under such permission. Competent Authority, however, for the reasons recorded in writing, permit lesser number of trees to be planted, or exempt from such obligation.

72. Section 8 deals with plantation of trees in blank area. The term "**Blank area**" is defined in Section 3(i) and reads as under:

“3.Definitions- *In this Act, unless there is anything repugnant in the context:*

(i) “Blank area” means any piece of land (not being under cultivation) measuring one half of a hectare or more, which has five or less trees growing on it;”

73. Section 8 provides that Divisional Forest Officer is of the opinion that trees should be planted in a blank area. He may issue a notice to owner, occupier or tenure-holder of such area to show cause why trees should not be planted in such area as may be specified in such notice. Implementation of Sections 7 and 8 by virtue of Section 9 is the responsibility of Divisional Forest Officer.

74. Section 10 provides for penalty for felling or removal of trees in contravention of Section 4 declaring it an offence, punishable with imprisonment which may extend to six months or with fine which may extend to One Thousand Rupees or with both.

75. Section 12 talks of forfeiture of timber and provides that where any person is convicted of an offence under UPPT Act, 1976, any timber or tree in respect of which the offence is committed and the implements used for felling such trees may be ordered by the Court to be forfeited to Government. Such timber forfeited under Section 12 shall be disposed of by the Competent Authority in such manner as may be prescribed.

76. Section 17 provides that award of penalty or confiscation of any property under UPPT Act, 1976 shall not prevent the inflicting of any punishment to which the person affected thereby, is liable under any other law.

77. Section 21 empowers the State Government, if it consider necessary, in the public interest, to exempt any area or any species of trees from all or any of the provisions of UPPT Act, 1976 by issuing a notification in the Official Gazette.

78. Section 23 empowers State Government, in the interest of general public, to declare by notification that any class of trees shall not be felled for such period as is specified in that notification.

79. Section 24 confers power upon the State Government to make rules.

80. Schedule I of the Act gives list of timber trees with reference to Section 3(xi) and Schedule II provides the list of fruit trees with reference to Section 3(xi) and both may be reproduced as under:

SCHEDULE-I
TIMBER TREES
[See Section 3(xi)]

| Sl. No. | Common Name | Botanical Name |
|----------------|--------------------|-----------------------|
| | | |

| 1 | 2 | 3 |
|-----|----------------------|--|
| 1. | Akhrot | <i>Juglans regia</i> |
| 2. | Arjun | <i>Terminalia arjuna</i> |
| 3. | Aam | <i>Mangifera indica</i> |
| 4. | Imli | <i>Tamarindus indica</i> |
| 5. | Kardhai | <i>Anogeissus pendula</i> |
| 6. | Kanju | <i>Holoptelea integrifolia</i> |
| 7. | Kusum | <i>Schleichera trijuga</i> |
| 8. | Kail | <i>Pinus excelsa</i> |
| 9. | Kharshu | <i>Quercus Sernecarpifolia</i> |
| 10. | Khair | <i>Acacia catechu</i> |
| 11. | Gutel | <i>Trewia nudiflora</i> |
| 12. | Dhau/Bakli | <i>Anogeissus latifolia</i> |
| 13. | Chandan | <i>Santalum ablum</i> |
| 14. | Chamkharik | <i>Carpinus viminea</i> |
| 15. | Chironji | <i>Buchanania latifolia</i> |
| 16. | Chir | <i>Pinus roxburgii</i> |
| 17. | Jamun | <i>Sygyzium cumini</i> |
| 18. | Dhak-Palas | <i>Butea Monosperma</i> (For Mirzapur, Varanasi, Banda and Jhansi districts only.) |
| 19. | Tuni | <i>Cedrella Serrata</i> |
| 20. | Tun | <i>Cedrella Toona</i> |
| 21. | Tendu | <i>Diospiros tomentosa</i> |
| 22. | Deodar | <i>Cedrus Deodara</i> |
| 23. | Neem | <i>Azadirachta indica</i> |
| 24. | Papri/Sansadu/Chikri | <i>Buxus Sempervirens</i> |
| 25. | Phaliyant | <i>Quercus glauca</i> |
| 26. | Bakain | <i>Melia azedarach</i> |
| 27. | Bahera | <i>Terminalia belerica</i> |
| 28. | Banj | <i>Quercus incona</i> |

| | | |
|-----|------------------|-----------------------------|
| 29. | <i>Mahua</i> | <i>Madhuca latifolia</i> |
| 30. | <i>Morinda</i> | <i>Abies pindrow</i> |
| 31. | <i>Moru</i> | <i>Quercus dilatata</i> |
| 32. | <i>Rai</i> | <i>Picea morinda</i> |
| 33. | <i>Rianj</i> | <i>Quercus Lanuginosa</i> |
| 34. | <i>Shisham</i> | <i>Dalbergia sissoo</i> |
| 35. | <i>Salai</i> | <i>Boswellia serrata</i> |
| 36. | <i>Sagaon</i> | <i>Tactona grandis</i> |
| 37. | <i>Sal</i> | <i>Shorea robusta</i> |
| 38. | <i>Siris</i> | <i>Albizia species</i> |
| 39. | <i>Sain/Asna</i> | <i>Terminalia tomentosa</i> |
| 40. | <i>Semal</i> | <i>Salmalia melabarica</i> |
| 41. | <i>Harr</i> | <i>Terminalia chebula</i> |
| 42. | <i>Haldu</i> | <i>Adina cordifolia</i> |

SCHEDULE-II
FRUIT TREES
[See Section 3(xi)]

| Sl. No. | Common Name | Botanical Name |
|----------------|--------------------|---------------------------------|
| 1 | 2 | 3 |
| 1. | <i>Anar</i> | <i>Punica Granutum</i> |
| 2. | <i>Amrood</i> | <i>Psidium Guyava</i> |
| 3. | <i>Aroo</i> | <i>Prunus perrico</i> |
| 4. | <i>Aloobukhara</i> | <i>Prunus communis</i> |
| 5. | <i>Aam</i> | <i>Mangifera indica</i> |
| 6. | <i>Aonla</i> | <i>Embica officinale</i> |
| 7. | <i>Kathal</i> | <i>Artocarupus integrifolia</i> |
| 8. | <i>Khubani</i> | <i>Prunus armeniaca</i> |
| 9. | <i>Naspati</i> | <i>Pyrus communis</i> |

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| | | |
|-----|--|--------------------------------|
| 10. | <i>Narangi, Neebu, Malta, Mussammi, Santra</i> | <i>All varieties of citrus</i> |
| 11. | <i>Litchi</i> | <i>Nephelium litchi</i> |
| 12. | <i>Sharifa</i> | <i>Amona squamosa</i> |
| 13. | <i>Sev</i> | <i>Pyrus Malus</i> |

81. The provisions of UPPT Act, 1976 show that if the trees within the ambit of the said Act are cut or removed or disposed of illegally, without permission of Competent Authority, the violator is liable for punishment under the provisions of the said Act and may also face other punishment, if any, provided under some other laws.

82. The compounding of the offence by Competent Authority, if any made, the payment recovered from the violator is referable to the violation of UPPT Act, 1976.

83. Similarly, for granting permission if the conditions of afforestation is imposed, that is also in respect of the compliance of UPPT Act, 1976 but cutting/felling/removal of a tree has its own impact upon environment adversely and it damages environment in various ways. When a damage to environment is caused which has the impact of contamination of water, pollution of air etc., Statutory Regulator under environmental laws is empowered to take action for such damage caused to the trees which in turn affects the environment adversely in various ways. This would include direction to pay Environmental Compensation by application of 'Polluter Pays' principle.

84. Here, at this stage, we may also refer to the definition of 'environment' which is provided in Section 2(a) of EP Act, 1986 as under:

"2. DEFINITIONS.-

In this Act, unless the context otherwise requires,--

(a) “environment” includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;”

85. The above definition clearly shows that all the aspects which we have already discussed are adversely affected due to cutting of a tree and affect the environment/damages the environment so as to fall within the ambit of the definition of ‘environment’ in Section 2(a) of EP Act, 1986.

86. Shri Mukesh Verma, Learned Counsel appearing for UKPCB stated that since framework for computation and assessment of Environmental Compensation for illegal felling of trees has been finalized, now UKPCB is proposing to take appropriate action for assessment of Environmental Compensation and its computation in accordance with above framework against persons responsible for illegal felling of trees by application of ‘Polluter Pays’ principle after giving due opportunity of hearing to all concerned parties.

87. Since the issue now has crystallized in this matter with regard to Environmental Compensation leviable from persons responsible for illegal felling of trees of land in question and in exercise of powers to issue directions, UKPCB is empowered to implement ‘Polluter Pays’ principle by issuing directions for payment of Environmental Compensation, we find it appropriate to permit UKPCB to proceed in the matter for computation and assessment of environmental compensation for illegal felling of trees and recover same from violators but before passing any final order in this regard, adequate opportunity of hearing to all stakeholders shall be provided by UKPCB in accordance with law. This exercise shall be completed within two months and a compliance report shall be filed by 15.02.2025 with Registrar General of this Tribunal. If any further order is

required, Registrar General shall place the matter before appropriate Bench.

88. We also direct that amount of environmental compensation realized/recovered by UKPCB shall be utilized for remediation/rejuvenation/ restoration of damaged environment in the area in question in the light of a Restoration Plan which shall be prepared by a Joint Committee comprising Divisional Forest Officer, Udham Singh Nagar; UKPCB; Central Pollution Control Board; and District Magistrate, Udham Singh Nagar. District Magistrate, Udham Singh Nagar shall be Nodal Authority for this purpose.

89. Plan shall be prepared by above Committee within one month and executed within two months after realization of environmental compensation from violators. A Compliance Report shall be submitted in next 15 days with Registrar General of this Tribunal, who, if finds that any further order is required, shall place the matter before appropriate Bench.

90. With above directions, this Original Application is disposed of.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

December 04, 2024
Original Application No.147/2024
(IA No.561/2024)
AB & R

कार्यालय, उप प्रभागीय वनाधिकारी (जसपुर) तराई पश्चिमी वन प्रभाग, रामनगर (नैनीताल)
पत्रांक 360 / 29-3 दिनांक, 29/03/2025
सेवा में,

1. श्री सुधीर गुप्ता पुत्र श्री सुरेश गुप्ता
2. श्री नुकूल कुमार गुप्ता पुत्र श्री महेश कुमार गुप्ता
निवासीगण ग्राम चौदपुर तहसील काशीपुर जिला उधमसिंहनगर।

द्वारा भू- स्वामी उपरोक्त की ओर से उनके नियुक्त प्रतिनिधि-
श्री सत्यम अग्रवाल तथा श्री सिद्धान्त गोयल
निवासीगण- हाल निवास काशीपुर उधमसिंहनगर।

विषय:- वन अपराध सं० 03/काशीपुर/2024-25 के सम्बन्ध में

सन्दर्भ:- इस कार्यालय की पत्र सं० 58/29-1 दिनांक 23.09.2024 एवं पत्र सं० 76/27-1
दिनांक 09.10.2024 एवं इस कार्यालय की पत्र सं० 276/29-1 दिनांक 28.02.2025

उपरोक्त विषयक अवगत कराना है कि वन क्षेत्राधिकारी ने अपने पत्र सं० 589/29-1 दिनांक 22.06.2024 के द्वारा आपको अवगत कराया गया कि मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित मूल आवेदन संख्या 147/2024, श्री हरदीप शर्मा बनाम रमेश चन्द्र आर्या एवं अन्य में पारित आदेश दिनांक 15.02.2024 व दिनांक 25.04.2024 के अनुपालन में संयुक्त टीम का गठन किया गया तथा संयुक्त टीम ने अपने पत्रांक यूकेपीसीवी/आरओके/2024/रिट-90/84 दिनांक 18.05.2024 के द्वारा अवगत कराया गया कि दिनांक 26.09.2023 को की गई गणना के सापेक्ष कथित बाग में आम-94, लीची 57, नारापाती-25 कुल 176 वृक्ष गणना करने पर कम पाये गये हैं। इस घटना का वन अपराध सं० 03/काशी/2024-25 पंजीकृत किया गया है।

पूर्व में सन्दर्भित पत्रों के द्वारा आपको अवैध रूप से पातित 176 वृक्ष का प्रतिकर/मुआवजा जमा करने हेतु सूचित किया गया था। परन्तु आपके द्वारा आतिथि तक मात्र 59 वृक्षों का प्रतिकर जमा किया गया है

अतः आपसे अपेक्षा की जाती है कि पातित शेष वृक्षों का मुआवजा/प्रतिकर रेंज कार्यालय काशीपुर में जमा करना सुनिश्चित करे अन्यथा आपके विरुद्ध विधिक कार्यवाही अनल में लायी जायेगी।


उप प्रभागीय वनाधिकारी, जसपुर
जॉच अधिकारी
तराई पश्चिमी वन प्रभाग, रामनगर।

पत्रांक / दिनांकित
प्रतिलिपि- प्रभागीय वनाधिकारी महोदय, की सेवा में सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।
प्रतिलिपि- वन क्षेत्राधिकारी काशीपुर को इस आशय से प्रेषित की सम्बन्धित को पत्र प्राप्त करा कर प्राप्ति इस कार्यालय को उपलब्ध कराना सुनिश्चित करे तथा प्रकरण में अपने स्तर से आवश्यक कार्यवाही करना सुनिश्चित करे।


उप प्रभागीय वनाधिकारी, जसपुर
जॉच अधिकारी
तराई पश्चिमी वन प्रभाग, रामनगर।

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कार्यालय, प्रभागीय वनाधिकारी,
तराई पश्चिमी वन प्रभाग, रामनगर (नैनीताल)

Tel./Fax No- 05947-251475, e-mail: dfotaraWest@gmail.com



पत्रांक - 34112 / 29-3

रामनगर

दिनांक, 2/04/2025

सेवा में,

जिलाधिकारी
उधमसिंहनगर।

विषय:- मा0 हरित प्राधिकरण में योजित मूल आवेदन सं0 147/2024 के सम्यन्ध में।

महोदय,

उपरोक्त विषयक अवगत कराना है कि आपके निर्देशानुसार गठित संयुक्त टीम द्वारा दिनांक 26.09.2023 को ग्राम चोंदपुर में फलदार वृक्षों के अवैध पातन के सम्यन्ध में भू स्वामी के प्रतिनिधि एवं शिकायतकर्ता हरदीप शर्मा की उपस्थिति में ग्राम चोंदपुर में वृक्षों की गणना की गयी। तत्समय मौके पर खड़े एव जीवित वृक्षों की संख्या 879 पाई गयी। मा0 हरित प्राधिकरण नई दिल्ली में योजित मूल आवेदन सं0 147/2024 में पारित आदेश दिनांक 25.04.2024 के अनुपालन में गठित संयुक्त जाँच समिति द्वारा शिकायतकर्ता श्री हरदीप शर्मा तथा भू स्वामी की उपस्थिति में सम्यन्धित स्थल का निरीक्षण दिनांक 08.05.2024 तथा 10.05.2024 को करते हुये उक्त भू खण्ड में वृक्षों की गणना की गयी, निरीक्षण के समय मौके पर खड़े वृक्षों की संख्या 703 पायी गयी। उक्त सम्पूर्ण भू खण्ड में की गयी फलदार वृक्षों की गणना के अनुसार दिनांक 26.09.2023 के सापेक्ष कुल 176 वृक्ष कम पाये गये। उक्त रिपोर्ट में कुल 176 वृक्षों (आम के 94 वृक्ष, लीची के 57 वृक्ष, नारापाती के 25 वृक्ष) समिति की निरीक्षण आख्या के अनुसार अतिरिक्त पातन होना पाया है। तत्पश्चात इस घटना का वृक्ष संरक्षण अधिनियम 1976 के अन्तर्गत वन अपराध सं0 03/काशी0/2024-2025 पंजीकृत किया गया। भू स्वामी 1.-श्री सुधीर गुप्ता 2.- नकुल कुमार गुप्ता को उक्त पातित 176 वृक्षों का प्रतिकर जमा करने हेतु उप प्रभागीय वनाधिकारी जसपुर द्वारा कई प्रेषित किये गये। परन्तु भू स्वामी द्वारा 176 पातित वृक्षों के सापेक्ष मात्र 59 वृक्षों का प्रतिकर जमा किया गया तथा शेष 117पातित वृक्षों का प्रतिकर जमा नहीं किया गया है।

उक्त अवैध रूप से पातित 117 वृक्षों का मूल्य रु 5000.00 प्रति वृक्ष की दर से 585000.00 होता है। उक्त प्रतिकर की धनराशि जमा करने हेतु भू स्वामी को कई वार पत्र लिख गया किन्तु उनके द्वारा प्रतिकर की धनराशि जमा नहीं की जा रही है।

अतः आपसे अनुरोध है कि भू स्वामी को शेष पातित 117 वृक्षों का प्रतिकर भू राजस्व की भांति वसूल करने हेतु अपने स्तर से आवश्यक कार्यवाही करने का कष्ट करें।

भवदीय,

(प्रकाश चन्द्र आर्य)
प्रभागीय वनाधिकारी,

तराई पश्चिमी वन प्रभाग, रामनगर