

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

MEMORANDUM OF APPLICATION

(UNDER SECTION 14 AND SECTION 18(1) READ WITH
SECTION 20 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010)

ORIGINAL APPLICATION NO. 14 OF 2023

IN THE MATTER OF:

Vanashakti & Anr.

.....Applicants

Versus

Chief Conservator of Forests, Thane & Ors.

.....Respondents

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Advocate for the Applicant

20.02.2024

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.....Respondents

**APPLICANT'S AFFIDAVIT IN RESPONSE TO THE JOINT
COMMITTEE REPORT**

I, Stalin Dayanand, aged 59 years, Indian inhabitant, authorized representative of Petitioner No. 1 having his office at Nandakumar Pawar House, Opp. Shri Jagannath Darshan Building, M.D. Kini Marg, Bhandup Village (East), Mumbai - 400 042 and the Petitioner No. 2 herein do hereby solemnly affirm as under:

1. I say that I am filing the present additional affidavit in light of the liberty granted by this Hon'ble Tribunal *vide* order dated 28.11.2023.
2. At the outset, I say that the Joint Committee Report has, unfortunately, not placed complete facts in its report as it has failed to take cognisance of or adopt the contents of a Marathi letter dated 23.05.2023 issued by the Office of Deputy Superintendent Land Records, Bhiwandi to Dy. Conservator of Forests, Thane Forest Division – R1 (*annexed at Pg.*



182 of the report). In fact, the manner in which the suppression is made is questionable as no attempt has been made to provide an English translation of this very relevant letter. I say that it is the Applicant who has taken steps to undertake the exercise of translating the letter and to annex the same herewith so as to enable this Hon'ble Tribunal to provide complete environmental justice. A copy of the English translation of the letter dated 23.05.2023 is marked and annexed hereto as **ANNEXURE R-1**.

3. I say that I will now deal with the relevant contents of the letter dated 23.05.2023, which the Joint Committee Report has not dealt with at all. I say that though the said letter states that all interested parties were informed of the measurement survey by advance notice *vide* M.R. No 15568/2023, the Applicants have not received any such intimation, in advance or otherwise.
4. I say that the said letter reproduces the details as seen in the original records of Survey Nos. 106 and 107 at Village Ganeshpuri in a tabular manner and shows the corresponding areas of both Survey Nos. as per Aakarband (*Aakarband establishes the survey number and to whom the particular survey number is allotted*) & as per 7/12 extract. The letter records the following:
 - (i) there is a discrepancy in the area of 7/12 details and the original records of Akarband **to the extent of 28.22 ha.**
 - (ii) Certified Gat book records were not prepared in the area for both Survey Nos. 106 & 107 and it is imperative to take reference of Village Map for deciding the boundaries of the said survey numbers;



- (iii) According to the village map. Survey Nos. 106 & 107 have not been mentioned in the original records itself;
- (iv) So long as the discrepancy in 7/12 record of rights according to the original records (Aakarband) in Survey Nos. 106 & 107 is not removed and boundary marks in Survey Number and Hissa Number are not created, it is technically difficult to decide the boundary as per Survey Number.

5. Therefore, it is clear from the aforesaid letter that the discrepancy to the extent of 28.22 ha. still exists and with Survey No. 107 (Pt.) admittedly a Reserved Forest, it is utmost necessary under the Precautionary Principle that clear boundary demarcation to protect the Reserved Forest across Survey Nos. 105, 106, 107 will be necessary. In that regard, I say that the Joint Committee Report has simply attached a hand-drawn map dated 24.06.2023 that shows a hand-drawn demarcation of Survey Nos. 107 (pt.) and does not attach any corrected contour maps, village maps or revenue maps of all three Survey Nos; 105, 106 & 107 together. I say that in light of the fact that the letter of Office of Deputy Superintendent Land Records, Bhiwandi clearly states that a discrepancy in mapping of 28.22 ha. of forest land exists, which requires proper boundary demarcation to save and protect the reserved forest area from any encroachment, this Hon'ble Tribunal may be pleased to direct both revenue and forest departments to appropriately demarcate the boundaries of all survey numbers so that the forested areas are kept inviolate.

6. I say that the intervention of this Hon'ble Tribunal is necessary in the present proceedings as R-5's activity is being undertaken in and around the Reserved Forest area which is located on a hill. I say that the entire



slope of the hill has been excavated unsustainably and by destroying the continuity of the hill landscape, which has not only caused environmental damage and making the school building vulnerable to landslides but will lead to an increased threat to the lives of students. Further, R-5, in its affidavit, has not shown a single piece of document that grants construction permission under the Maharashtra Land Revenue Code, 1966 on its plot. I say that merely owning the plot does not entitle R-5 to construct a building in whichever manner without first getting a sanction from the Collector's office. Annexed and marked hereto as **ANNEXURE R-2** are photographs of the construction having been undertaken after cutting the slope of the forested hill.

7. I say that another aspect that deserves utmost attention of this Hon'ble Tribunal is that the Joint Committee Report states the following:
- (i) Survey No. 107 is wrongly marked as Survey No. 106
 - (ii) Survey No. 106 is wrongly marked as Survey No. 105
 - (iii) Survey No. 105 is not shown on the Village maps due to its size

I say that it is oddly shocking to note that the entire chainage of Survey Nos. of Village Ganeshpuri is sought to be changed now, which has not ever been done before and bearing in mind that the maps of the MMRDA and the revenue maps point towards the area in question to be a 'Reserved Forest', this only goes on to show that there is a large-scale mismanagement of land parcels, that admittedly includes 28.22 ha. of forest land. Therefore, on this ground alone, it is necessary that a direction to the Revenue and Forest department to immediately demarcate correct boundaries of all survey numbers of Ganeshpuri village be issued in the interest of protection and preservation of the Reserved Forest in the area.



8. I say that another aspect that neither the Joint Committee nor the Forest Department has brought to the notice of this Hon'ble Tribunal is that R-5 had, indeed, encroached into the Reserved Forest land adjacent to Survey No. 107/C in 2021 against which prosecution and other legal action was initiated by the Forest Department in 2021. Therefore, as a history-sheeter, this Hon'ble Tribunal ought to consider that 28.22 ha. of missing forest land is open to vulnerability at the hands of R-5. I say that to substantiate the aforesaid submission, a copy of the letter dated 18.03.2021 issued by the Office of the Forest Ranger, Bhiwandi to Deputy Conservator of Forests, Thane acknowledging that R-5 has encroached into the Reserved Forest land and has undertaken illegal deforestation is hereto marked and annexed as **ANNEXURE R-3**.
9. In light of what is stated above, it is clear that R-5 has admittedly been involved in encroaching into the Reserved Forest area and that there remains a large-scale discrepancy in the original records of Ganeshpuri Village across Survey Nos. 105, 106 & 107 that admittedly show 28.22 ha. of Reserved Forest land cannot be traced in the records at this point in time. Therefore, it is prayed that this Hon'ble Tribunal be pleased to issue a direction to the Revenue and Forest department to the effect that immediate demarcation of correct boundaries of all survey numbers of Ganeshpuri village be carried out in the interest of protection and preservation of the Reserved Forest in the area and until the demarcation is done and proper records of 28.22 ha. of Reserved forest lands with village maps are brought before this Hon'ble Tribunal, *status quo* be maintained in the entirety of Survey Nos. 105, 106 & 107.



Solemnly affirmed at Mumbai)

Dated this 20th Day of February, 2024)
20 FEB 2024

Identified by Me

Zaman Ali,

Advocate for Original Applicants

DEPONENT

BEFORE ME

SHANE CARDOZ

Advocate & Notary (Govt of India)
Reg. No. 16388 B Com. LL B
33, Clifford House, Kachhware Mandir Road
Next to Ganesh Mandir Chowk, Bandra (W)
Mumbai - 400 050. Mob. 98205 17020
MAH / 3457 / 2002



Notary Register Serial No.	578/E/24
Date:	20 FEB 2024

ORIGINAL SEEN & VERIFIED	
AADHR	PAN = SECTION 10 DRUG LICENSE PASSPORT POA RESOLUTION
5948 06517588	

8



OFFICE OF DY. SUPERINTENDENT LAND RECORDS, BHIWANDI

Rationing Office Complex, Nr S.T. Stand, Bhiwandi
Tel: 02522223323 Email: dyslrbbhiwandi_thane@yahoo.com

No. Bhuma/Hadda Kayam/M.R. No15568 Ganeshpuri/ ahaval/2023

Bhiwandi, Dt. 23.05.2023/2091/23

To,

Dy. Forest Conservator, Thane Forest Dvn., thane
L.B. Shastri Marg, Marathon Circle
Naupada, Thane(W) 400602

Subject: Original Application No.14/2023
Vanashakti & Anr. V/s. Chief Conservator of Forests,
Thane & Ors.

Reference: 1) Chief Forest Conservator (Pra.) Thane Forest Circle,
Thane letter No. Kaksha-13/20/Jameen/ 448/2023-24,
dt. 03.04.2023.

2) Chief forest Conservator (Pra.) Thane Forest Circle
Thane letter no. Kaksha-6(3)/ 20/Jameen/39/2023-24
dt.09.05.2023.

3) This office letter No. Bhuma/ Hadda Kayam/M.R.
No.15568/ Ganeshpuri/ Ahaval/ 2023, Bhiwandi, dt.
12.05.2023, Out.no.1989/23.

4) Your letter No.Kaksha-1/20/ Jameen/ 777/Yr 2023-24
dt.12th May 2023.

5) Forest Range Officer, Bhiwandi letter No. VPA/S./133/
2023-24, Bhiwandi dt. 15.05.2023.

With reference to the above subject, this is to submit that Original Application No.14/2023 wz Vanashakti & Anr. V/s. Chief Conservator of Forests, Thane & Ors. was filed before Hon'ble National Green Tribunal, western Zone, Pune in which the Petitioner had filed a case in context with excavation and tree cutting carried out for leveling for construction of the school in forest area of Survey No.106 at Village Ganeshpuri, pursuant to which directions were received from the Chief forest Conservator (Pra.) Thane forest Circle, Thane vide letter dt. 03.04.2023 for ascertaining the location of the property under appeal in respect of S.No.106 and S.No.107. Accordingly, this office has submitted the report about the action taken vide letter at Ref.No.3 above dt. 12.05.2023, to the Chief Forest Conservator (Pra.) Thane Forest Circle, Thane (copy enclosed).

After completion of the process in the matter, all the interested parties were informed by advance notice vide M.R. No.15568/2023 and the measurements were completed on 01.05.2023. After the measurements, the subject property at the site and the records available in this office were verified and the concerned Maintenance Surveyor had submitted the report on 10.05.2023 on perusal of which the following are the observations.

Details of the original records of Property S. No.106 and 107 at Village Ganeshpuri and 7/12, are given in the following table:

Sr.No.	As per Aakarband		Details as per 7/12			Remark
	S. No./ H.No.	Area (H.R.)	S. NO./ H. No.	Area (H.R.)	Holder	
1.	106 A	18.04.00	106 A/1	4.05.20	Bhimeshwar Sadguru Nityanand Trust	
			106 A/2	10.38.20	Divisional Forest Officer Thane (Forest Division)	
			103 A/3	1.64.206	Forest Department	
		18.04.00		16.07.60		
2.	106 B	2.40.79	106 B	2.40.79	Notional Garden Department	
3.	106 K	6.96.00	106 K	1.01.00	Holiday Camp	
			106 K/1	10.01.00	Holiday Camp	
			106 K/2	3.00.00	Divisional Forest Officer Thane (Garden Department)	
			106 K/3	1.78.70	Government of Maharashtra	
			106 K/4	1.13.00	Forest Department	
			106 K/5	0.33.30	Sarswati Narayan Ville & Others 4	
		6.96.00		8.27.00		
4.	106 D	0.99.0		0.99.0	Shree Gurudeo Siddhapith Ganeshpuri	
Total (A)		28.39.79		27.74.39		
5.	107	54.29.00	107A	52.61.00	Reserve Forest	
			107 B	0.44.00	Vajreshwari Education	
			107 K	0.01.82		
Total (B)		54.29.00		53.06.82		
Total (A +B)		82.68.79		80.81.21		

It is observed from the above table that there is a discrepancy in the area in 7/12 Hissa Details in S. No.106 and S.No.107 and the area as per the Original Records Akarband. Similarly, the Certified gat Book Records were not prepared in the area of both the survey numbers 106 and 107 at the time of original Jamabandi Measurements, it is imperative to take reference of Village Map for deciding the boundaries of the said Survey Numbers. Accordingly, on perusal of this office Original Village Map, it is observed that the boundary line between S.No.106 and S.No.107 has not been mentioned in the original records itself. Further, after the said measurements, the consolidated area of both these Survey numbers as per the Village Map is 54.46.20 H.R. and this area as per total area of Akarband (82.68.79 H.R.) is discrepant to the extent of 28.22.59 H.R. Therefore, so long as the discrepancy in 7/12 Record of Rights according to the original Records (Akarband) in s.No.106 and S.No.107 is not removed and boundary marks in Survey Number and Hissa Number are not created, it will be technically difficult to decide the boundary as per Survey Number/ Hissa Number.

Similarly, on perusal of the previous Case of Ascertaining Boundary M.R. No.567/1986 and Pot Hissa M.R. No.4/202 regarding previous measurements carried out by this office, it is observed that the school Vajreshwari Shikshan Prasarak Mandal is situated in S.No.107.

Therefore, it is the opinion of this office that, in order to ascertain the original boundaries of Survey Number / Hissa Number in S.No. 106 and 107, Village Ganeshpuri, it would be appropriate for the interested parties to submit a proposal for appropriate corrections, TO THE District Collector, thane under Sec. 135 of Maharashtra Land revenue Act 1966.

Submitted for further necessary action.

Sd/-
(Pramod Jarang)
Dy. Supdt. Land Records
Bhiwandi

Copy to:

- 1) Chief Forest Conservator (Pra.), Thane Forest Circle, for information.
- 2) Dist. superintendent, Land Records, Thane, for information.
- 3) Forest Range Officer, Bhiwandi, for information

True Copy


ANNEXURE R-2





Vajreshwari Rd, Maharashtra 401206, India

Thane
Maharashtra
India

	Decimal	DMS
Latitude	19.487299	19°29'14" N
Longitude	73.002707	73°0'9" E

2024-02-14(Wed) 02:57(PM)



F2Q7+G3F, Bhiwali, Maharashtra 401206, India

Bhiwali
Maharashtra
India

	Decimal	DMS
Latitude	19.488631	19°29'19" N
Longitude	73.012718	73°0'45" E

2024-02-14(Wed) 02:08(PM)



F2Q7+G3F, Bhiwali, Maharashtra 401206, India

Bhiwali
Maharashtra
India

	Decimal	DMS
Latitude	19.489011	19°29'20" N
Longitude	73.012223	73°0'44" E

2024-02-14(Wed) 02:06(PM)



F2Q7+G3F, Bhiwali, Maharashtra 401206, India

Bhiwali
Maharashtra
India

	Decimal	DMS
Latitude	19.4886	19°29'18" N
Longitude	73.012647	73°0'45" E

2024-02-14(Wed) 02:07(PM)





F2Q7+G3F, Bhiwali, Maharashtra 401206, India

Bhiwali
Maharashtra
India

	Decimal	DMS
Latitude	19.488606	19°29'18" N
Longitude	73.012816	73°0'46" E

2024-02-14(Wed) 02:09(PM)

True Gory
[Signature]



वनोपज विधी अन्वये भिवंडी, भातानगर मंड, कन्नरी गा.प. भिवंडी

विषय - वनोपज विधी अन्वये सर्वे क्र. १-२/च,

१०७/क याचक

जा.क्र. अ. जमिन/१२४/सम. २००१-२२

दिनांक, २२.३.२०२२ दिनांक २६/०३/२०२२

या उपरतजमरशाक
वांगी, काठिभान गा.प.

संदर्भ - आपलेकडील पत्र क्र. क्र. १/२०/जमिन/१२४२/ सन २०२०-२२

दिनांक १७/०३/२०२२

उपरोक्त भूअधिकार पत्रान्वये आपणास अहवाल सादर करण्यात येत आहे की, सदरभिय
पत्रान्वयेत जोडलेला नीचे नोंदरापुरी सर्वे क्र. १०७/च, १०७/क चे क्षेत्र पैकी निर्वनिकरण झालेल्या
क्षेत्राच्या नकाशा, वडनेश्वरी शिक्षण प्रसारक मंडळ याचे बहिवाटी खालील क्षेत्राच्या नकाशा आणि प्रत्यक्ष
स्थळावरील नद्यस्थिती हे मजालले असता मांडीफिकेशन नुसार १०७ (पै) पार्ट II (१०७/क) क्षेत्र ४
एकर २० गुठे हे क्षेत्र वडनेश्वरी शिक्षण प्रसारक मंडळ याचे बहिवाटी खाली असल्याचे दिसून येत
आहे आणि १०७ (पै) पार्ट I (१०७/च) क्षेत्र १ एकर ३ गुठे हे क्षेत्र वडनेश्वरी शिक्षण प्रसारक मंडळ
याचे बहिवाटी खाली नसल्याचे दिसून येत आहे. तसेच १०७/क च्या लगत असलेल्या वनक्षेत्रात
वडनेश्वरी शिक्षण प्रसारक मंडळ यांनी साधारणत: २५ गुठे एवढ्या वनक्षेत्रात अतिक्रमण केल्याचे
त्यांनी सादर केलेल्या बहिवाटीच्या नकाशा नुसार दिसून येत आहे. सदर अतिक्रमीत वनक्षेत्रात
कोणतेही बांधकाम दिसून येत नाही तरी अतिक्रमीत क्षेत्राचे अक्षांश रेखांश खालील प्रमाणे.

- १) N-19° 29' 19.94" E 73° 0' 51.35", २) N-19° 29' 19.20" E 73° 0' 50.56"
- ३) N-19° 29' 18.71" E 73° 0' 47.51", ४) N-19° 29' 20.44" E 73° 0' 48.41"

वडनेश्वरी शिक्षण प्रसारक मंडळाच्या वतीने प्रत्यक्ष स्थळावर उपस्थित असलेले श्री
चंद्रकांत बागो भोईर या, बंधूबाटा यांनी त्यांना मण्टीकरण, वृक्ष मांडीमाडी आवश्यक असलेले क्षेत्र हे
पचासमश टाखदिके त्यांचे अक्षांश रेखांश खालील प्रमाणे.

- १) N-19° 29' 20.32" E 73° 0' 44.71", २) N-19° 29' 20.34" E 73° 0' 47.40"

२५/०३/२०२२
आवक लिपीक
उप जमरशाक
वन विभाग, उज याच कार्यालय

माहितीचा अधिकार अधिनियम २००५
अंतर्गत द्यायत आलेली माहितीची पत्र

म.प्र.राज्ये जमरशाक व वनपरिक्षेत्र अधिकारी विभाग
कार्यालयाचे नाव
वनपरिक्षेत्र अधिकाऱे, भिवंडी यांचे कार्यालय
दि. 19/05/2022

OFFICE OF FOREST RANGE OFFICER, BHIWANDI

Forest Produce Sale Depot Bhiwandi, Shantinagar Road,
Kacheri Pada, Bhiwandi 421302

Subject: Regarding Village Ganeshpuri,
Survey No.107/B, 107/C

Out.No.A/Jameen/418/Yr 2020/21

Bhiwandi 421302, Date: 18.03.2021.

To,

The Dy. Conservator of Forests
Thane, Forest Department, Thane

Reference: Your letter No. Kaksha-1/Jameen/ 5392/
Yr 2020-21 dt.17.03.2021.

With reference to the above a report is being submitted that, on verification of the map of the deforestation area out of Survey no.107/B, 107/C, Village Ganeshpuri that is enclosed to the letter under reference, map of the area occupied by Vajreshwari Shikshan Prasarak Mandal and the present status at the actual site, it is found that the area of 107 (Pt) Part II (107/C) Area 4 Acres 20 Gunthe is occupied by Vajreshwari Shikshan Prasarak Mandal as per the notification. And the area of 107 (Pt.) Part I (107/B) Area 1 Acres 3 Gunthe is not occupied by Vajreshwari Shikshan Prasarak Mandal. Further, as per the occupancy map submitted by them, it is observed that Vajreshwari Shikshan Prasarak Mandal have encroached upon about 25 Gunthe in forest area adjacent to 107/C.

No construction is found in the said encroached forest area.
Latitudes and longitudes of the encroached area are as follows:

1)	N-19° 29' 19.94' E73° 0' 51.35"	2)	N-19° 29' 19.20' E73° 0' 50.56"
3)	N-19° 29' 18.71' E73° 0' 47.51"	4)	N-19° 29' 20.44' E73° 0' 48.41"

Shri. Chandrakant Vasi Bhoir, Res: Vedhepata, who was personally present at the site on behalf of Vajreshwari Shikshan Prasarak Mandal, indicated the area required by them for leveling, tree cutting, in presence of the panchas, the latitudes and longitudes of which areas follows:

1)	N-19° 29' 20.32' E73° 0' 44.71"	2)	N-19° 29' 20.34' E73° 0' 47.40"
3)	... illegible ...	4)	... illegible ...

It is observed that the area required for leveling, tree cutting is in the forest area in 107/C. Further, Shri. Chandrakant Bhoir has given a statement in panchanama that the legal action to be taken regarding the encroachment made by Vajreshwari Shikshan Prasarak Mandal 107/C, is acceptable to them.

Therefore, this report submitted for further action and guidance.

Sd/-
Forest Range Officer
Bhiwandi (S.)

True Copy


**BEFORE THE NATIONAL GREEN
TRIBUNAL, WESTERN BENCH
SITTING AT PUNE
ORIGINAL APPLICATION
NO. 14 OF 2023**

BETWEEN:

Vanashakti & Anr. ...APPLICANTS

Versus

Chief Conservator of Forests, Thane & Ors.

...RESPONDENTS

**APPLICANT'S AFFIDAVIT IN
RESPONSE TO THE JOINT
COMMITTEE REPORT**

Dated this 20th day of February, 2024

ZAMAN ALI

Advocate for the Applicant

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Mumbai – 400 001

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zamanali1602@gmail.com