

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

ORIGINAL APPLICATION NO. 55 /2022

Mr. Kashinath Thakur Applicant

Vs

Grampanchayat Shirki & Ors. Respondents

**Say on behalf of Respondent No.1 on
Amendment Application filed by
Applicant....**

MAY IT PLEASE YOUR HONOUR

- i) The said Application is strongly objected.
- ii) The said Application is submitted after say filed by Respondent No.1 and joint report filed by the committee hence same is after thought hence it deserves to be rejected on that ground.
- iii) The said Application is misconstrued and misleading hence the said application deserves to be rejected with cost.
- iv) The description of property as mentioned in the main application is totally false and misleading and hence for want of proper description of property the application deserves to be rejected.
- v) The said main application is filed with intention to obstruct the constructive social work by defendant No. 1 for the benefit and convenience of the villagers at large, hence on that count also the said application deserves to be rejected forthwith.

Without prejudiced to whatever stated above the paragraph wise detail say on behalf of Respondent No.1 is as follows:

1. Regarding the contents of Para No. 1 of the said amendment application it is stated on behalf of Respondent No.1 that the Applicant had wrongly mentioned in the main Application about the description of property it is here by stated that without observing the topographical situation on the spot and without going through the record of rights the Applicant has filed the main application with ill intention to harass the Respondent No.1 and to obstruct the good social work which was under taken by Respondent No.1 for the

welfare and upbringing of the children of the village and nearby vicinity.

2. The Respondent No.1 states that the contents in para no. 2 that the Hon'ble Tribunal was pleased to appoint a joint committee to visit site and report is somewhat correct however if the order of the Hon'ble Tribunal dated 30.05.2022 is perused it is clearly mentioned in para no.2 by the Hon'ble Tribunal that the matter relates to raising construction of Anganwadi by Respondent No.1 Grampanchayat Shirki over Survey no.152, village Bori Tal.Pen, District Raigad which is mangroves falling under CRZ-1, wherein any kind of construction is prohibited because the said area falls within 50 meter of the high tide line (HTL) more over than that a committee was directed to visit the place and submit a factual report and action taken report within 6 weeks as direction given in Para. no.11 of the said order. However, the respected Joint Committee has gone beyond the scope of orders of Hon'ble Tribunal and observations are submitted regarding gat no. 15, which is situated under the territorial jurisdiction of Respondent no.1. It is, hereby submitted that the joint committee on its own accord has visited gat no. 15 of village Shirki, which is under the Grampanchayat Shirki that is Respondent no.1. The joint committee has stated in point no. 02 on page no.3 that as per the remark in the panchanama made by the forest department Vadkhal dated 05.05.2022, the afore-mentioned gat no.15 is in village Shirki. However, as per the land records, alleged area is a part of survey no.150 and survey no.151 however it is humbly submitted on behalf of responded no.1 that the said Anganwadi is in distinct gat no.15. Moreover than that as per observation of joint committee also the said Anganwadi doesn't come in survey no. 152, where allegedly as per the complainant in main application the Anganwadi is situated. Admittedly construction of Anganwadi is in gat no.15 which is situated in Grampanchayat Shirki that is Respondent No.1. It is, further stated that prior of starting the construction work on the said place there was a Crematorium (Mhasan vata) for people of Hindu religion. The said construction was very old one and Assessment Extract No. 8, which is filed at Serial No.6 of the list of documents bearing no. 302 C issued by the then Gram Panchayat Shirki in the year 1994. Thus, it is crystal clear, that there was old construction at the said spot in survey No.15, It is pertinent to note that as the new construction is done on exactly the same spot and foundation where the very old Mhasan Vata was situated. Hence, no

question arises of cutting any sort of Mangroves or any other Tree as there was naturally no any plant on the said old cement construction obviously because no mangroves can grow on cement or a concrete place. Hence, it is apparently seen that no any mangroves tree are cut as same foundation is utilized where previously a Crematorium (Mhasan vata) was in existence. Hence, considering the fact that newly constructed Anganwadi, the structure is built on the same foundation of that of previously constructed Crematorium (Mhasan vata) hence firstly Respondent no.1 states that no question of digging and cutting of trees of whatsoever nature is done and secondly it is stated that the newly constructed Anganwadi will be utilized for public welfare that is for small children of the village and Vicinity. As the construction is carried on previously built old foundation hence the permission is not taken from MCZMA. Thus it is crystal clear that the applicant has misled the Hon'ble Tribunal by filling the complaint knowingly with false contention.

3. The Respondent No.1 state that the contents in Para no. 3 are not admitted by Respondent No.1. It is submitted that the Complainant has filed the said complaint only with sole intention to harass them and to obstruct the good work done by Respondent No.1 for the welfare of the villagers especially the children. However, the respected joint committee has gone beyond the scope of orders of Hon'ble court and observations are submitted regarding gat no. 15 which is situated under Respondent no.1 it is here by submitted that the joint committee on its own accord has visited gat no. 15 of village Shirki which is under the Grampanchayat shirki that is Respondent no:1. The joint committee has stated in point no.02 on page no.3 that as per the remark in the panchanama made by the forest department Vadkhal the aforementioned gat no.15 is in village Shirki However as per the land record alleged area is a part of survey no.150 and survey no.151 however it is humbly submitted on behalf of respondent no.1 that the said Anganwadi is in distinct gat no.15 more over than that as per observation of joint committee also the said Anganwadi doesn't come in survey no. 152 where allegedly as per the complainant the Anganwadi is situated. Admittedly construction of Anganwadi is in gat no.15 which is situated in Grampanchayat Shirki that is Respondent No.1. It is further stated that prior of starting the construction work on the said place there was a Crematorium (Mhasan vata) for people of Hindu religion. The said construction was very

old one and Assessment Extract No. 8 which is filed at Serial No.6 of the list of documents bearing no.302 C issued by the then Gram Panchayat Shirki in the year 1994. Thus, it is crystal clear, that there was old construction at the said spot in survey No.15, It is pertinent to note that as the new construction is done on exactly the same spot and foundation where the very old Mhasan Vata was situated hence no question arises of cutting any sort of Mangroves or any other Tree as there was naturally no any plant on the said old cement construction obviously because no mangroves can grow on a cement or a concrete place. Hence it is apparently seen that no any mangroves tree are cut as same foundation is utilized where previously a Crematorium (Mhasan vata) was in existence. Hence considering the fact that newly constructed Anganwadi, the structure is built on the same foundation of that of previously constructed Crematorium (Mhasan vata) hence firstly Respondent no.1 state that no question of digging and cutting of trees of whatsoever nature is done and secondly it is stated that the newly constructed Anganwadi will be utilized for public welfare that is for small children of the village and Vicinity. As the construction is carried on previously built old foundation hence the permission is not taken from MCZMA.

4. The contents in para no.4 are denied on behalf of respondent no.1 in toto. It is contended by respondent no.1 that on perusal of 7/12 extract of survey no.15 situated in village shirki that is respondent no.1 in the column of owner it is seen that the name of grampanchayat shirki is enumerated in the record of rights that is 7/12 extract. Moreover, than that in the other rights column there is no mention of CRZ Zone or any other remark. It is further stated that as mentioned in the say submitted behalf of respondent no.1 on the main application the construction work is been carried in Survey No.15 which comes under the Gram Panchayat Jurisdiction of Respondent No.1. It is further stated that prior of starting the construction work on the said place there was a Crematorium (Mhasan vata) for people of Hindu religion. The said construction was very old one and Assessment Extract No. 8 which is filed at Serial No.6 of the list of documents bearing no.302 C issued by the then Gram Panchayat Shirki in 1994. Thus, it is crystal clear that there was old construction at the said spot in survey No.15 hence it comes under the proviso of the said section. The Respondent No.1 vide its resolution no. 175 dated 11/01/2022 passed its resolution in monthly meeting has unanimously decided to construct a Anganwadi on the

said outdated and not in use at the relevant time Crematorium (Mhasan Vata). The same is filed at serial no.4 of the list of documents as submitted along with the said say. Moreover, than that a supporting resolution is also unanimously passed vide its resolution no. 23 dated. 25/02/2022 by the Gram Sabha of Respondent No.1. If the said resolution is perused it is expressed that an alternative Crematorium (Mhasan Vata) is being made on other premises hence this old Crematorium (Mhasan Vata) is not in use in recent past therefore it is decided that as there is no other place in the Gaavthan land hence the said Anganwadi is to be constructed on the same place by demolishing the old and presently not in use Crematorium (Mhasan Vata). Accordingly, as per the said two resolutions the construction work for the said Anganwadi is being done on the same spot where there was previously Crematorium (Mhasan Vata) which is in Survey no.15 which comes under Respondent No.1. It is pertinent to note that as the new construction is done on exactly the same spot where the very old Mhasan Vata was situated hence no question arises of cutting any sort of Mangroves or any other Tree as there was naturally no any plant on the said old cement constructed foundation obviously because no mangroves can grow on a cement or a concrete place.

5. The Respondent no.1 states that the contents of para no.5 are misleading and hence denied by respondent no.1. The applicant be asked to prove the contents in the said paragraph it is submitted that the 7/12 extract of the said land bearing gat no.15, village shirki it is categorically mentioned in the column of owner that the grampanchayat shirki is exclusive owner of the said land moreover than that in the other rights column there is no mention of CRZ Zone or any other remark in the said other rights column. It is further submitted that there was crematorium (mhasan vata) and thereafter on the same place anganwadi is constructed. It is crystal clear that the construction is in the said premises bearing survey no.15, village shirki hence after knowing this fact just to create obstruction in the social work and regarding the construction done with all due procedure which is followed by respondent no.1 the complainant is trying to harass the respondent no.1 which is a responsible grampanchayat working hard for the welfare and upliftment of the villagers and especially children. Hence on the count this application to amendment is strongly opposed by respondent no.1.

6. The respondent no.1 submits that the contents of para no.6 are false and after thought hence strongly denied by respondent no.1. Prior to filing of the false complaint the complainant had made complaint to forest office vadkhal and thereafter to the learned sub divisional officer Pen. It is pertinent to note that a panchanama is conducted by forest department vadkhal , pen in which the fact is brought on record moreover than that the 7/12 extract, extract 6 and extract 8 are public documents and are easily available in the concerned department. The 7/12 extract can also be easily seen on internet website digital 7/12 and 7/12 mahabhumilekh. It is also submitted on behalf of respondent no.1 that the location can also be tracked by using internet map website Google Maps hence there is no any chance of error or mistake to identify any land by its survey number or Gat number. Hence, the present application for amendment is altogether redundant and need not be considered and rejected on the face of it. The proposed amendments in the said paragraph may not be considered because of the above mentioned reasons. It is further submitted that the construction work of the said anganwadi in place of crematorium ground (mhasan vata) is already over in the due period of time hence the further amendment sought regarding stay is also redundant and hence may not be granted. It is pertinent to note that the objects of constructing the Anganwadi is with the sole intention for the benefit and welfare of the children of the village Shirki that is respondent no.1 and adjoining villages and the same is done with following the rules and regulations. the said Anganwadi was of utmost importance for the above mentioned reason and hence the said Anganwadi is functional for the welfare of the children. Hence the said amendment is become altogether redundant.
7. The respondent no.1 submits that the contents in the said paragraph no.7 of the application are misleading and after thought as mentioned above the two distinct lands bearing survey number 152 , village bori and gat number 15, village shirki can easily be located as per record of rights and google maps. Moreover than that the two villages are altogether distinct and the creek passes between the said two villages that is village Shirki and Bori it is further submitted that survey no. 152 of village Bori and Gat no.15 at village Shirki are approximately one to one and half kilometers apart from each other. The said two lands are geographically very much distinct from each other. Hence the contention of the applicant that there is no physical demarcation or fencing

or boundary marks on ground at the site for identification purposes. There are no boards showing the Gat number or survey numbers. The entire area has thick mangroves cover the said reasons given are irrelevant and doesn't hold any merit the said reasons may be discarded on the face of it. It can be easily accessed that if the land which is previously mentioned that is survey number 152 village Bori, then how come the funds for construction will be sanctioned to respondent no.1 by Panchayat Samiti, Pen. The further contention of the applicant that he came to know about the real Gat number when he could get copy of the Grampanchayat Resolution in second week of June,2022. It is pertinent to note that 7/12 extract is public document and is easily available within a short period of time however the applicant has not filed 7/12 extract of gat no. 15, village Shirki till this date for best reasons known to the applicant. As stated above the 7/12 extract of the said land bearing gat no.15, village shirki it is categorically mentioned in the column of owner that the grampanchayat shirki is exclusive owner of the said land moreover than that in the other rights column there is no mention of CRZ Zone or any other remark in the said other rights column. Moreover than that if the subject matter is related to gat no.15 of village Shirki as per this particular amendment application by the applicant than the respondent no.2 dose not remain the necessary party to the present case. However the applicant with ill - intention to keep all government machinery at stake and create obstruction in the smooth functioning for the welfare of the villages has not prayed for the deletion of the respondent no.2 from the present original application. It is further submitted that for the sack of argument it can be matter of error that survey or gat number may be wrongly mentioned however how can whole village be mention wrongly in the application hence it is crystal clear that the applicant only with intention to harsh the whole government machinery at large and respondent no.1 in particular as file the original application hence the contention of the applicant that his doubts were confirmed after going through the Joint Committee Report is all together false and misleading it is contended by respondent no.1 that prior to filing of the present complaint a Panchanama was conducted by the Forest Department Vadkhal, Pen at the instinct of the complainants complaint in the said panchanama it was crystal clear that the construction work of anganwadi was in Gat no.15 of village shirki and not in survey no.152 of village Bori however with intention to harass and obstruct

the good work of welfare by respondent no.1 the complainant purposefully misled the Hon'ble Tribunal as Survey no.152 of village bori there is a remark of CRZ 1. So if at all the said amendment application is allowed then the whole nature of the proceeding will be changed and altogether a new case will be introduced. It is pertinent to note that the say is filed on behalf of respondent no.1 and as per orders of the Hon'ble Tribunal dated 30/05/2022 the joint committee has also filed its report hence in view of all the proceedings in the said matter it is crystal clear that the complainant is unnecessarily harassing the respondent no.1 and has filed the present complaint on false information and this particular amendment application is filed in this at this belated stage without any proper ground or any facts and circumstances which has arose after filing the present complaint.

8. The prayer as enumerated in para no.8 of the said complaint are strongly opposed and may not be granted for the above mentioned reasons amongst other reasons.
9. It is therefore prayed on behalf of respondent no.1 that-
 - i. The Hon'ble Tribunal be pleased to pass an order so as to reject the said application for amendment
 - ii. The main complaint be dismissed on the aforesaid grounds with heavy cost to the complainant
 - iii. Any other order which the Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case be passed in favour of the respondent no.1.

Place : PUNE

Date : ~~31~~ 31/12/2022

Humbly submitted,

Fau
Respondent No.1
ग्रामसेवक,
ता.पेण, जि.रायगड

VERIFICATION

I, Mrs. *Supriya Jayvant Patil*, do hereby confirm and verify the contents of the above Say to be true and correct to the best of my knowledge, information and belief and I affirm it to be true for which I have signed hereunder at Pen.

Place : PUNE

Date : ~~31~~ 31/12/2022

Filed in court

Patil
Adv. *Dinesh J. Patil*

Fau
Respondent No.1
ग्रामसेवक,
ता.पेण, जि.रायगड