

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO. 272 OF 2024

IN THE MATTER OF:

DEEPANK KUMAR SHARMA & ORS.

...PETITIONERS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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NEW DELHI

Dated 18.08.2025

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**WRITTEN SUBMISSIONS FILED BY RESPONDENT NO. 8 – DR.
DEVESH KUMAR SHARMA**

1. All the khasra no. (s) in which the land of R-8 is situated, in Bijnor are outside the forest area and also is not commercial area. Hence, the Uttar Pradesh Protection of Trees Act, 1976 is applicable. Section 5 of the said Act provides for procedure for permission to fell/remove trees (page 247 of O.A.). As per the said provision, the Officer concerned on the application made by the person, within 20 days to cut, remove or otherwise dispose off or fell a standing tree has to forward the application along with his report to the Competent Authority. Section 5 (2) of the said Act provides that the Competent

Authority shall within 15 days from the date of receipt of the report grant or refuse the permission applied for.

2. Section 5(3) further provides that where the Competent Authority fails to take any decision under sub section 2 within the time specified, **it shall be deemed that the permission applied for has been granted.**

3. In the affidavit filed by DFO (R-7, page 155) in paragraph no.8, it is admitted that R-8 made a representation on 03.11.2023 to fell the trees in the land owned by R-8 on the ground that the mango trees have become quite old, diseased and unproductive.

4. In paragraph no.11 of the said affidavit of the DFO, it is further admitted that the permission was denied only on 11.02.2024. Thus, as per the section 5 of the Uttar Pradesh Trees Protection Act, R-8 was permitted to fell the trees on the basis of the deeming permission after a lapse of 35 days from the date of the Application i.e. 03.11.2023. Therefore, there was no illegality whatsoever on the part of R-8 to fell the mango trees on his land more particularly when the concerned Lekhpal- Shri Pramod Kumar in his report (page 201) has

reported that the age of the trees was around 70-75 years and most of the trees were diseased and were unproductive due to old age and disease.

5. It is further pertinent to mention that DFO- R-7 in paragraph no.9 has also stated that the proceedings were initiated against R-8 in consonance with UP Govt. Notification dated 07.01.2020 (page 241). The said notification is at page 77.Paragraph no. 1 of the said notification itself makes it clear that the prohibition to fell the mango trees was only limited to *desi/tukmi* varieties. The mango trees which were on the land of R-8 were of *chausa* variety (paragraph no.2 page 2 of the additional affidavit filed by R-8 dated 26.05.2025). Hence, DFO proceeded to wrongly apply the said notification to R-8 herein.
6. Be that as it maybe R-8 still after commuting the alleged offence of cutting the trees paid a sum of rupees 3.95 lacs to the DFO for felling of 79 trees on privately owned land of R-8 (paragraph no.8 page 209)
7. The average productive life of mango trees is only upto 30-40 years while the trees which were felled were admittedly 70-

75 years old. It is also pertinent to mention that the carbon dioxide sequestration also adversely changes with the health and age of a mango tree. Hence, the mango trees which were cut by R-8 on his own personal land were not only unproductive, diseased but also had no benefit to the environment as a whole.

8. R-8 still has planted around 800 saplings of different trees on his land which are now more than one year old and are now around 9/10 feet in height. In addition, R-8 has also on his own planted around 700 peepal and neem tree saplings after purchasing the same from the forest department Bijnor and planting the same at the land identified for the purpose by the Forest Department Bijnor. For this purpose, additional affidavit filed by R-8 on 01.07.2025 may be taken note of. Hence, as regards contributing to the benefit of environment , R-8 has planted more than 1500 trees which are not only young but also productive and beneficial to the environment. As a conscientious person, the plantation drive for planting 700 tree saplings on the designated area of forest department was undertaken on the World Environment Day on the

National Highway Bijnor in the presence of senior officers of Forest Department and Chairman Municipal Committee Bijnor. R-8 has further undertaken to maintain and nourish the said trees planted on the designated area for the next five years. This was also widely reported by the local newspapers. The newspaper cuttings are annexed to the said affidavit dated 01.07.2025 of R-8.

9. Without prejudice to the above, it is also pertinent to mention that the present O.A. has been filed by the nephews of R-8 out of sheer personal vendatta. The memo of parties itself show that Applicants no.1 and 2 are sons of R-9- Sanjay Kumar Sharma who is the real brother of R-8. This Hon'ble Tribunal may also take note of para no. VIII of O.A. page 25, para 5 page 38 of O.A. and para 10 of the additional affidavit filed by R-8 dated 01.07.2025. Hence the present O.A. is motivated and filed not by public spirited persons but for oblique motives by the nephews of R-8 who have no right whatsoever on the land in question which is exclusively owned by R-8.

10. The Lucknow bench of Hon'ble High Court in ***Suraj Builders v. State of U.P. W.P. No. 8804/2023*** has held that there is no specific provision in the Air (Prevention and Control of Pollution Act), 1981 as well as Water (Prevention and Control of Pollution Act), 1974 empowering the UP Control Board to impose environment compensation. The said judgment has been passed after following the judgment of the Hon'ble Supreme Court of India in ***Kantha Vibhag Yuva Koli Samaj Parivartan Trust v. State of Gujarat***. The said judgment passed by the Supreme Court still holds the ground and therefore is the law of the land.
11. Hence the present O.A. may accordingly be dismissed with exemplary cost.

FILED BY:
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