

**VERDICTUM.IN**

ITEM NOS.21, 23, 24 & 25 COURT NO.8

SECTION PIL-W

**S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS**

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS.

Respondent(s)

(INTERLOCUTORY APPLICATIONS FOR 08.02.2023

"ONLY"

[1] I. A. No. 191635/2022

(CEC REPORT NO. 31/2022 - REPORT OF CEC IN APPLN. NO. 1559/2022  
FILED BEFORE IT BY MINISTRY OF FINANCE)

IN RE : MINISTRY OF FINANCE

AND

[2] (i) I. A. No. 132892 OF 2022

[APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.]

IN I. A. No. . 3840 (Disposed of)

APPLICATION FOR PERMISSION FOR CARRYING OUT SILVICULTURAL FELLING  
OF TREES]

AND

(ii) I. A. No. 132905 OF 2022

[APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.]

IN I. A. No. 2370 OF 2007 (disposed of)

[APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.]

IN RE : SILVICULTURE FELLING OF TREES IN THE STATE OF HIMACHAL  
PRADESH

AND

[3] I. A. Nos. 90862 AND 90864 OF 2021

[APPLICATIONS FOR DIRECTIONS AND EXEMPTION FROM FILING O.T.]

IN RE : M/S. JAIPUR SILICA SUPPLY CO., RAJASTHAN

AND

[4] I. A. Nos. 105987 AND 105989 OF 2019

[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]

IN RE : WIND MILL, MAHARASHTRA

AND

[5] SLP(C) No. 25047/2018

AND

[6] I. A. No. 195467 AND 195468/2022

[APPLICATIONS FOR MODIFICATION OF COURT'S ORDER DT. 03.06.2022 AND

## VERDICTUM.IN

EXEMPTION FROM FILING O.T.]

IN RE : STATE OF UTTAR PRADESH

AND

[7] CONTEMPT PETITION (CIVIL) NO. 941 OF 2021  
WITH I. A. NO. 151207 OF 2021  
(APPLICATION FOR PERMISSION TO APPEAR AND ARGUE IN PERSON)  
IN I.A.NO. 151208 OF 2021  
(APPLICTION FOR EXEMPTION FROM FILING O.T.)  
IN RE : KHEM CHAND GOYAL

AND

[8] [i]CONTEMPT PETITION (CIVIL) NO. 319 OF 2021  
WITH I. A. NO. 66719 OF 2021  
(APPLICATION FOR EXEMPTION FROM FILING NOTORIZED AFFIDAVIT)  
IN I. A.NO. 90182 OF 2019 (APPLICTION FOR DIRECTIONS)  
IN RE : RAJAJI TIGER RESERVE, UTTARAKHAND

WITH

[ii]I. A. No. 186910/2022  
(CEC REPORT NO. 30/2022 - REPORT OF CEC IN APPLN. NO. 1557/2022  
FILED BEFORE IT BY GAURAV KUMAR BANSAL)  
IN RE : GAURAV KUMAR BANSAL

AND

[iii] I.A. NO. 20650/2023  
(CEC REPORT NO. 3/2023 - REPORT OF CEC IN APPLN. NO. 1558/2021  
FILED BEFORE IT BY GAURAV KUMAR BANSAL)  
IN RE : GAURAV KUMAR BANSAL

AND

[9] CONTEMPT PETITION (CIVIL) NO. 302 OF 2020  
WITH I. A. NO. 4480 OF 2020  
(APPLICATION FOR EXEMPTION FROM FILING O.T.)  
AND I. A. NOS. 118475 AND 118476 OF 2020  
(APPLICATIONS FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS AND  
EXEMPTION FROM FILING O.T.)  
AND I. A. NO. 148248 OF 2022  
(APPLICATION FOR EXEMPTION FROM FILING O.T.)  
AND I. A. NO. 181312 OF 2022  
(APPLICATION FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS )

AND

[10] In Re : Issue of Appointment of a National Regulator in terms  
of Judgment of this Court in Lafarge Umiam Mining Pvt. Ltd. Vs. UOI  
and Ors. passed in I. A. Nos. 1868/2007, 2091/2007, 2225-2227/2008,  
2380/2008, 2568/2009 and 2937/2010

## VERDICTUM.IN

AND

[ 11 ] IN RE : "CONSTRUCTION OF MULTI STOREYED BUILDINGS IN FOREST LAND MAHARASHTRA"

[ i ] INTERLOCUTORY APPLICATION NO. 2079/2007  
[APPLICATION FOR IMPLEADMENT AND DIRECTIONS]

WITH

[ ii ] I.A NOS. 2301-2302  
[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]

AND

[ iii ] I.A. NOS. 3044-3045  
[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]

AND

[ iv ] I.A. NOS. 2771-2772  
[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]

AND

[ v ] I.A.NOS. 111725 AND 154041/2018  
[APPLICATIONS FOR SUBSTITUTION OF APPLICANT, i.e. SMT. HOUSABAI HARIBHAU BHAI RAT AND CONDONATION OF DELAY IN FILING APPLICATION FOR SUBSTITUTION IN I.A. NOS. 2771-2772/2009]

WITH

[ vi ] W.P.(C) NO. 301/2008

AND

[ 12 ] I.A. NOS. 63946/2017 AND 35372/2017  
[APPLICATIONS FOR INTERVENTION AND DIRECTIONS]

WITH I.A. NO. 157034/2019

[APPLICATION FOR DIRECTIONS IN I. A. NO. 35372/2017]

IN RE : PROF. SOBHINDRAN

AND

[ 13 ] I.A. NOS. 2930 AND 3963  
[APPLICATIONS FOR DIRECTIONS AND PERMISSION TO FILE ADDITIONAL DOCUMENTS]

WITH I.A. NO. 160714 OF 2019

[APPLICATION FOR EXEMPTION FROM FILING OFFICIAL TRANSLATION]

IN RE : M/S SHEWALKER DEVELOPERS LTD.

AND

[ 14 ] I.A. NO. 3927/2016 [APPLICATIONS FOR DIRECTIONS]

IN I.A. NOS. 3645-3647/2013(DISPOSED OF)

IN RE : M.P. ROAD DEVELOPMENT CORPORATION LTD.

AND

[ 15 ] I.A. NOS. 96990 AND 96992/2019

[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]

IN RE : KUDIYALATHUR RESERVED FORESTS, STATE OF TAMIL NADU

WITH I.A. NO. 134037/2020

(APPLICATION FOR WITHDRAWAL OF OF I.A. NOS. 96990 AND 96992/2019)

**AND**

**[16] I.A. NO. 2858/2010 [APPLICATION FOR DIRECTIONS ]  
IN RE : GURGAON RECREATION AND LEISURE FACILITIES AT VILLAGE  
WAZIRABAD, GURGAON, HARYANA  
WITH  
I.A. NO. 36565/2021 (APPLICATION FOR PERMISSION TO FILE ADDITIONAL  
DOCUMENTS)**

**AND**

**[17] I.A. NO. 41723/2022 [APPLICATION FOR DIRECTIONS]  
IN RE : AMAN SINGH, RAJASTHAN**

**AND**

**[18] I.A. NOS. 52897, 52898 AND 61361 OF 2021  
[APPLICATIONS FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM  
FILING O.T.]  
IN RE : SANSAR CHAND AND ORS., JAMMU AND KASHMIR**

**AND**

**[ 19 ] I.A. NO. 184657 OF 2022  
[APPLICATION FOR DIRECTIONS]  
IN RE : KILLING OF FOREST RANGE OFFICER (FRO) IN TELANGANA**

**AND**

**[ 20 ] I. A. NO. 5891/2019 [APPLICATION FOR DIRECTIONS]  
IN RE : COMPENSATORY AFFORESTATION MANAGEMENT AND PLANNING  
AUTHORITY (CAMPA) FUNDS**

**WITH**

**IN RE: STATUS OF FUNDS**

**AND**

**[21] CIVIL APPEAL NOS. 12234-12235 OF 2018  
AND CONTEMPT PETITION NO. 938/2021**

**AND**

**[22][ i ] I. A. NO. 3949 OF 2016 [APPLICATION FOR DIRECTIONS]  
IN RE : GRANT OF MINING LEASE TO M/S PUTAMBEKAR MINERALS**

**WITH**

**[ ii ] I. A. NOS. 124224, 124225/2020 AND 124229,124230/2020  
[APPLICATIONS FOR INTERVENTION, EXEMPTION FROM FILING OFFICIAL  
TRANSLATION AND DIRECTION, EXEMPTION FROM FILING OFFICIAL  
TRANSLATION ]**

**[23] I.A. NOS.26655 AND 2663/2023 (APPLICATIONS FOR IMPLEADMENT AND  
DIRECTIONS)**

**WITH**

**C.A. No. 12234-12235/2018 (XVII)  
(FOR APPLICATION FOR PERMISSION ON IA 39315/2021  
FOR impleading party ON IA 100097/2021**

## VERDICTUM.IN

FOR INTERVENTION/IMPLEADMENT ON IA 100097/2021  
FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 100099/2021  
FOR impleading party ON IA 116495/2022  
FOR INTERVENTION/IMPLEADMENT ON IA 116495/2022  
FOR APPLICATION FOR VACATION OF INTERIM ORDER ON IA 116496/2022  
IA No. 126327/2021 - APPLICATION FOR PERMISSION  
IA No. 39315/2021 - APPLICATION FOR PERMISSION  
IA No. 116496/2022 - APPLICATION FOR VACATION OF INTERIM ORDER  
IA No. 100099/2021 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 116495/2022 - INTERVENTION/IMPLEADMENT  
IA No. 100097/2021 - INTERVENTION/IMPLEADMENT)  
SLP(C) No. 25047/2018 (XVI)

IA No. 96106/2021 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 96105/2021 - EXTENSION OF TIME  
IA No. 140401/2018 - INTERVENTION APPLICATION  
IA No. 112557/2019 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

WITH

W.P.(C) No(s). 435/2012  
(IA No. 9702/2023 - APPROPRIATE ORDERS/DIRECTIONS)

CONMT.PET.(C) No. 302/2020 in W.P.(C) No. 202/1995  
(IA No. 148248/2022 - APPLICATION FOR EXEMPTION FROM FILING THE  
RESIDENTIAL ADDRESS OF RESPONDENT/CONTEMNOR WITH AFFIDAVIT  
IA No. 118476/2020 - EXEMPTION FROM FILING O.T.  
IA No. 4480/2020 - EXEMPTION FROM FILING O.T.  
IA No. 181312/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 118475/2020 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

CONMT.PET.(C) No. 941/2021 in W.P.(C) No. 202/1995  
(IN I.A. NO. 1310 OF 2005 ETC.[  
IA No. 151208/2021 - EXEMPTION FROM FILING O.T.  
IA No. 151207/2021 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 08-02-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE VIKRAM NATH

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Mr. Shubhranshu Padhi, AOR  
Mr. Vishal Bansal, Adv.  
Ms. Rajshwari Shankar, Adv.  
Mr. Niroop Sukirthy, Adv.  
Mr. Md. Ovais, Adv.

Mr. Aravindh S., AOR  
Ms. Uma Bhuvaneshwari, Adv.  
Mr. Abbas.b, Adv.

M/S. D.S.K. Legal, AOR  
Mrs. Pragya Baghel, AOR

Mr. Mrinal Gopal Elker, AOR  
Mrs. Mrinal Elker Mazumdar, Adv.

Dr. Manish Singhvi Sr, Adv.  
Mr. Arpit Parkash, Adv.  
Mr. Milind Kumar, AOR

Mr. Sanjay Parikh, Sr. Adv.  
Ms. Srishti Agnihotri, Adv.  
Ms. Satwik Parikh, Adv.  
Ms. Sanjana Grace Thomas, Adv.  
Ms. Mantika Vohra, Adv.

Mr. Ravindra Keshavrao Adsure, Adv.  
Mr. Rohan Darade, Adv.  
Mr. Lav Mishra, Adv.  
Mr. Gopal Balwant Sathe, AOR

Mr. V. N. Raghupathy, AOR  
Mr. Dhanesh Ieshdhan, Adv.

Mr. Balbir Singh, A.S.G.  
Ms. Suhashini Sen, Adv.  
Mr. Naman Tondon, Adv.  
Mr. Piyush Beriwal, Adv.  
Mr. Samarvir Singh, Adv.  
Mr. Navanjay Mahapatra, Adv.  
Mr. T.s. Sabarish, Adv.  
Mr. Amrish Kumar, AOR

Mr. Kaushik Choudhury, AOR

Ms. Anzu. K. Varkey, AOR  
Mr. Ritesh Patil, Adv.

## VERDICTUM.IN

Mr. M. R. Shamshad, AOR  
Mr. Ajay Marwah, AOR  
Mr. Naveen Kumar, AOR

Ms. Prerna Singh, Adv.  
Mr. Guntur Pramod Kumar, AOR

Ms. Mayuri Raghuvanshi, AOR  
Mr. Sanjay Upadhyay, Adv.  
Mr. Vyom Raghuvanshi, Adv.  
Mr. Kazi Sangay Thupden, Adv.  
Ms. Eisha Krishan, Adv.  
Ms. Mansi Bacheni, Adv.  
Ms. Gitanjali Sanyal, Adv.

Mr. Deep Rao Palepu, Adv.  
Mr. Syed Jafar Alam, AOR  
Mr. Arjun Agarwal, Adv.

M/S. Cyril Amarchand Mangaldas, AOR

Ms. Ruchira Goel, AOR  
Ms. Adarsh Nain, AOR

Mr. Barun Kumar Sinha, AAG  
Mr. Kumar Anurag Singh, Adv.  
Mr. Anando Mukherjee, AOR  
Mr. Shwetank Singh, Adv.  
Ms. Beena Sharma, Adv.

Mr. Wills Mathews, Adv.  
Mr. Paul Johnedison, Adv.  
Ms. Deepa Joseph, Adv.  
Ms. Sweta Garg, Adv.

Ms. Kavya S. Lokande, Adv.  
Ms. Niharika Dewivedi, Adv.  
Ms. Sweta Sand, Adv.  
Mr. Ravish Kumar Goyal, Adv.  
Mr. Nitin Sharma, Adv.  
Mr. E. Vinay Kumar, Adv.

Mr. Gautam Jha, Adv.  
Mr. Siddhartha Jha, AOR

Ms. Seita Vaidyalingam, AOR

M/S. Venkat Palwai Law Associates, AOR  
Mr. P Venkat Reddy, Adv.  
Mr. Prashant Kumar Tyagi, Adv.  
Mr. P Srinivas Reddy, Adv.

## VERDICTUM.IN

Mr. Vinod Sharma, AOR  
Nishanth Patil, AOR

Mr. Chirag M. Shroff, AOR

Dr. Joseph Aristotle S., AOR  
Mr. Shobhit Dwivedi, Adv.  
Ms. Vaidehi Rastogi, Adv.

Mrs. Garima Prashad, Sr. Adv.  
Mr. Nishit Agrawal, AOR  
Ms. Kanishka Mitral, Adv.

Ms. Vanshaja Shukla, AOR

Mr. Narendra Kumar, AOR  
Mr. Raghvendra Kumar, Adv.  
Mr. Anand Kumar Dubey, Adv.  
Mr. Simanta Kumar, Adv.

Mr. S. Gowthaman, AOR

Mr. Saket Singh, Adv.  
Ms. Sangeeta Singh, Adv.  
Ms. Niranjana Singh, Adv.

Mr. Somesh Chandra Jha, AOR  
Mr. Sunil Kumar Sharma, AOR

Mr. K.M. Nataraj, Solicitor General  
Mr. Shreekant Neelappa Terdal, AOR  
Mr. Mrinal Elkar Mazumdar, Adv.  
Mr. Mukesh Kr. Verma, Adv.  
Mr. Neeraj Kr . Sharma, Adv.  
Ms. Indira Bhakar, Adv.

Mr. P. S. Sudheer, AOR  
Mr. Sunny Choudhary, AOR  
Mr. Nishe Rajen Shonker, AOR

Mrs. Kirti Renu Mishra, AOR

UPON hearing the counsel the Court made the following  
O R D E R

### I.A. NO.191635/2022 (ITEM NO.1)

1. This application concerns the Report of the CEC bearing No.31 of 2022 in Application No.1559/2022 filed by the Directorate of Revenue Intelligence, Ministry of Finance, Government of India



## VERDICTUM.IN

seeking permission of this Court for diversion of 6,200 sq. mtrs of Morphological Ridge Area situated at Plot No.11B, Vasant Kunj, New Delhi for construction of office building for the Directorate of Revenue Intelligence Headquarters, New Delhi.

2. The Central Empowered Committee (CEC) has filed its report. In the Report, the CEC has recommended permitting the Directorate of Revenue Intelligence (DRI) to construct the aforesaid headquarters at the site mentioned above, subject to certain conditions.

3. The CEC, in paragraph 22 of its Report dated 01.12.2022 has observed thus:-

"22. Keeping in view the discussions in the preceding paragraphs and considering that

i) the land in plot No.11 is part of the Institutional Plot within the constraint area in Vasant Kunj,

ii) the construction work has already commenced and that the DRI is in need of an independent office for smooth discharge of its functions.

It is recommended that this Hon'ble Court may consider permitting the DRI, Ministry of Finance, Government of India to construct its Office Headquarters in Plot No.11B on the land measuring 6200 sq.mts in Morphological Ridge area in Vasant Kunj in New Delhi subject to the following conditions:

i) the DRI, Ministry of Finance, shall deposit 5% of the project cost of Rs.74.80 crores with RMB Fund and which amount under the close supervision of the Delhi Ridge Management Board shall be used by Delhi Forest Department for conservation and protection of Delhi Ridge;

ii) the DRI shall deposit cost of undertaking compensatory planting of 500 plants and maintenance for five years with the Delhi Forest Department which shall take up planting of indigenous species and its maintenance. DRI and

## VERDICTUM.IN

DDA shall make available sufficient land for undertaking compensatory planting of 500 plants;

iii) Vice Chairman, DDA shall deposit in RMB Fund 5% of Rs.9,00,15,837/- (cost of land paid by DRI to DDA) as penalty for allotment of land in Morphological Ridge without obtaining prior approval of this Hon'ble Court; and

iv) CPWD will deposit in RMB Fund an amount of Rs.1 lakh being the penalty for having destroyed the trees standing on the plot and carrying out excavation work without obtaining the prior approval of this Hon'ble Court.

This Hon'ble Court may consider directing the Delhi Development Authority not to allot in future any land to any agency situated in the notified Ridge and Morphological Ridge without the prior approval of this Hon'ble Court."

4. It could thus be seen that the CEC has no objection if the aforesaid construction is permitted, subject to the conditions stipulated in the said Report.

5. We are, therefore, inclined to allow the application (Application No.1559/2022) filed by DRI on the conditions stipulated in the CEC Report No.31/2022, converted into I.A. No.191635/2022.

6. Permission is granted, subject to conditions, stipulated in the Report (as modified hereinbelow). The DRI as well as DDA shall scrupulously comply with the conditions mentioned in the Report.

7. Insofar as condition No.2 is concerned, Mr. Balbir Singh, learned Additional Solicitor General of India, graciously states that the DRI is willing to plant 1000 plants instead of 500 plants, as such the words "500 plants", in condition No.2, shall be substituted with "1000 plants".

8. Insofar as condition No.4 is concerned, the words "being the

penalty" shall stand struck off.

9. We find that since the land which is allotted by the DDA is part of the land, which was excluded by the orders of this Court dated 13.09.1996 and 19.08.1997, the CEC was not justified in imposing condition No.3 insofar as the DDA is concerned. The condition No.3 is, therefore, set aside.

10. I.A. No.191635/2022 is, accordingly, disposed of.

11. While considering the said I.A., one important aspect has been brought to our notice.

12. It is pointed out that apart from the notified area of ridge which is a protected area, there are other areas falling outside the demarcated notified ridge which also have similar 'morphological features' of ridge.

13. The High Court of Delhi vide order dated 30.11.2011 in Writ Petition No.3339/2011 (Ashok Tanwar v. Union of India) and this Court in Delhi Development Authority v. Kenneth Builders and Developers Pvt. Ltd. and Others [(2016) 14 SCC 561] has held that land falling outside the demarcation of notified ridge but having similar 'morphological features' of ridge should be given same protection as is given to the notified areas and no construction should be permitted thereon. It cannot be doubted that the ridge in Delhi acts as a lung, which supplies oxygen to the citizens of Delhi. The necessity to protect the ridge, therefore, cannot be undermined.

14. It appears that there has been some difficulty in identifying the areas of ridge, which are not notified but also have the same features.

## VERDICTUM.IN

15. We, therefore, find it appropriate that the Ministry of Environment, Forest and Climate Change (MoEFCC), appoints a Committee consisting of the following officials/officers, to work out the modalities for identifying the said area which has similar 'morphological features' as that of a notified ridge and which needs to be protected as a notified ridge:-

- i) A senior officer of the MoEFCC, not below the rank of Joint Secretary.
- ii) A representative of the Forest Department of the NCT of Delhi.
- iii) A representative of the Geological Survey of India.
- iv) A nominee of the Ridge Management Board
- v) A representative of the DDA.

16. The representative of the MoEFCC shall be the Chairperson-cum-Convenor of the said Committee.

17. The Committee shall submit its preliminary report on 15.03.2023.

18. We further direct that until further orders, the DDA shall not allot any land in the areas which are under consideration for being notified as a protected area.

### I.A. NO.132892/2022 (ITEM NO.2)

1. This application has been filed by the State of Himachal Pradesh seeking recall/modification of the order dated 11.03.2019 and for allowing the State Government to divert the forest land under the Forest (Conservation) Act, 1980 and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)

Act, 2006.

2. We have noticed that on account of the orders passed by this Court dated 11.03.2019, this Court is flooded with applications after applications, seeking permission to construct primary schools, public health centers, anganwadi centres and other public utility buildings in remote areas. The State is constrained to approach this Court even for seeking permission to connect villages in remote areas by roads. Needless to state, the citizens residing in the remote hill areas cannot be deprived of the developmental activities that are being undertaken in other parts of the country.

3. As already stated herein above, the State of Himachal Pradesh has filed a number of I.As. seeking permission for various projects in pursuance of the order passed by this Court dated 11.3.2019. A perusal of the orders dated 03.05.2019, 15.02.2021, 09.12.2021, 14.12.2021, 24.03.2022, 02.05.2022, 14.10.2022 and 30.11.2022 would demonstrate that the State of Himachal Pradesh has time and again approached this Court relating to clearance of projects related to roads, schools, dispensaries, anganwadis, hospitals, panchayat offices, etc.

4. We find that the requirement of seeking permission of this Court for even undertaking minimal developmental activities necessary for the citizens residing in rural/hilly areas has caused long delays in the execution of such projects.

5. In any case, the statutory provisions under the Union Statutes like the Forest Conservation Act, 1980, Forest Conservation Rules, 2022, Compensatory Afforestation Fund Act, 2016 and Compensatory Afforestation Fund Rules, 2018 take care of protecting

## VERDICTUM.IN

environmental concerns. In addition, the Principal Chief Conservator of Forests (HoFF), vide order dated 21.04.2022 has issued various guidelines so as to ensure compensatory afforestation, whenever the permission for felling of trees is required.

6. In that view of the matter, we are inclined to allow the application. The application is allowed in terms of prayer clause '(a)'.

7. However, we clarify that this order would not be applicable in respect of the forest areas falling within the National Parks and Wildlife Sanctuaries.

I.A. No.132905/2022 (ITEM NO.2 BY STATE OF HIMACHAL PRADESH) &

IA NOS.52897-98/2021 AND 61361/2021 (ITEM NO.18)

List on 15.03.2023

I.A. NOS.90862 AND 90864/2021 (ITEM NO.3)

List on 15.03.2023.

I.A. NOS.105987 & 105989/2019 (ITEM NO.4)

List on 13.02.2023.

SLP(C) No.25047/2018 (ITEM NO.5)

1. This petition challenges the judgment and order dated 31.8.2018, passed by the Division Bench of the Calcutta High Court, thereby holding that felling of 356 trees was necessary for implementing the important public project of constructing the five Railway Over Bridges (ROBs). The Division Bench further held that

## VERDICTUM.IN

the respondent/State of West Bengal was entitled to fell only 356 trees and no other tree.

2. The Division Bench further directed that the respondent/State shall carry out compensatory plantation of at least five trees for every tree felled in the same plot or in a plot as near to the plot as possible where the trees will be felled.

3. By an interim order dated 20.09.2018, this Court had stayed the operation of the impugned judgment and order passed by the High Court.

4. Subsequently, this Court, vide order dated 09.01.2020 had appointed a Committee of Experts comprising of five members to take a decision about the best course to be adopted in the present case and to make a Report to this Court, within a stipulated period.

5. A Report was submitted by the said Committee to this Court on 18.02.2020. The Committee recommended thus:-

“that bridge will have to be constructed to resolve the congestion at the railway crossing in any event. But this issue may be solved by constructing local overbridges, at the lower cost, and possibly save some of the 306 trees from the chopping block, adding to both economic and environmental value.”

6. At the end of the Report, the Committee concluded thus:-

“Conclusion: To conclude, the committee to make this report has not only been traveling on roads, but has been on a journey of discovery.

We learnt that if we factor environmental costs and do a cost/benefit analysis, into the total cost of the project it can make a difference to the strategy choices that we make. As in the intention to “Go East”. We learnt to assess whether synergies of other transport modes like rail and waterways can be part of the strategy to make our decisions. We learnt that an environment impact analysis should be rigorously done

## VERDICTUM.IN

before a project to protect the human communities living there and their environment. We learnt that natural capital can be saved by acquiring a tree relocation technology and transferring it into the country. This will result in enormous economic benefits also. We learnt that plantation strategies should be formulated and implemented continuously to achieve the leaf area index (LAI) which has been lost as fast as is possible. And we learnt that signage communications about the project and environment indices in the local language will educate the people affected, and create harmony and understanding between the project teams and the local populace.

The issues in this study have implications far beyond this particular stretch of 60 km. Road. The learnings and axioms from this study can apply to other locations where such issues may surface. In this sense this report can become a template for solutions on a much larger scale.

On a more personal note, if one may be allowed, and it is relevant. One of the members of the team went on this very road 50 years ago to liberate Bangladesh with the magnificent Indian Army. Massive army columns with very heavy war technology and armaments traversed these roads smoothly and without incident. Perhaps even then they could "see the wood from the trees".

7. We have heard Mr. Prashant Bhushan, learned counsel appearing on behalf of the petitioners and Dr. Abhishek Manu Singhvi, learned senior counsel appearing on behalf of the respondent/State extensively.

8. Mr. Bhushan submits that pursuant to the directions issued by this Court dated 25.03.2021, the seven Members Expert Committee has submitted a report, which also emphasizes the need for permanent expert regulatory body.

9. He submits that in the past, various projects have been permitted by the Government without paying due care or attention to the environmental concerns. He, therefore, submits that unless a



## VERDICTUM.IN

study is made regarding viability of an alternative proposal, such a project, which requires felling of heritage trees should not be permitted. He further submits that as a matter of fact, the project at hand envisages felling of thousands of trees.

10. Dr. Abhishek Manu Singhvi, learned senior counsel appearing on behalf of the State of West Bengal, on the contrary, submits that on account of the interim orders passed by this Court, the entire project is stalled. He submits that on account of congestion, more than 600 people have lost their lives in accidents.

11. He further submits that out of 356 trees, which were initially required to be felled, some trees have naturally fell on account of cyclone and others on account of some other reasons. As of now only 306 trees are surviving. He submits that the State is willing to plant five trees as against one tree to be felled.

12. No doubt that the Committee appointed by this Court vide order dated 9.1.2020 has rendered yeoman services by giving various recommendations, which will be useful for the policy makers to protect the environment and strike a balance between development and environmental concerns.

13. The perusal of the recommendation would reveal that the Committee itself found that bridges will have to be constructed to resolve the congestion at the railway crossing. However, the Committee recommends that the issue may be solved by constructing local overbridge at a lower cost and possibly save some of the 306 trees from chopping.

14. It is thus clear that the Committee itself is not sure, as to whether by constructing local overbridges, any of the 306 trees

## VERDICTUM.IN

could be saved or not.

15. The contest between development and environmental concerns is ever ongoing. While there is no doubt that ecology and environment need to be protected for the future generations, at the same time, development projects cannot be stalled, which are necessary not only for the economic development of the country, but at times for the safety of the citizens as well. No doubt that the protection of environment and ecology are important. However, at the same time, it cannot be denied that human life is also equally important. On account of non-construction of ROBs, a number of accidents have taken place at Railway Crossings resulting in death of hundreds of human beings. The Report of the Committee itself would show that there is a congestion, on account of which, the construction of the project is necessary. They have given an alternative that instead of ROBs local over bridges can be constructed.

16. On account of the interim orders passed by this Court, the project has been stalled for a period of almost five years, it cannot be forgotten that every day's delay in execution of projects escalates their costs. At times, on account of delay in execution of such projects, their cost is multiplied.

17. On one hand, there is a necessity to protect the trees and in the event it is not possible to protect, to direct compensatory afforestation, and on the other hand, there is a need to have ROBs, which are part of Setu Bharatam Project.

18. In that view of the matter, we do not find that any error has been committed by the High Court. The High Court has considered

## VERDICTUM.IN

all the relevant aspects of the matter. The High Court has restricted the number of trees to be felled to only 356 and further put the State Government on terms for compensatory afforestation.

19. The special leave petition is, therefore, dismissed.

20. However, we are keeping the petition alive only for the consideration of the report of the Experts on the subject of compensatory conservation in India, submitted pursuant to this Court's directions in order dated 25.3.2021.

21. For the said purpose Mrs. Aishwaya Bhati, learned Additional Solicitor General of India, submits that the report is under active consideration of the Central Government. She submits that various stake holders including the various States will have to be consulted before accepting the Report. She, therefore, prays for a period of twelve weeks for consideration of the Report and placing the views of the Central Government before this Court.

22. We would appreciate, if the Central Government holds joint meeting with all the stake holders including the representatives of all the State Governments/Union Territories and come out with a unified proposal for consideration of this Court.

### I.A. NOS.195467 & 195468/2022 (ITEM NO.6)

The Registry is directed to place this matter before a Bench comprising of Three Judges, after obtaining necessary directions from Hon'ble the Chief Justice of India.

List on 15.03.2023.

## VERDICTUM.IN

### CONTEMPT PETITION (C) NO.941/2021 (ITEM NO.7.)

The contempt petition is dismissed, in terms of the signed order.

### CONTEMPT PETITION (C) NO.319/2021, I.A. NOS.186910/2022 AND 20650/2023 (ITEM NO.8.)

1. Issue notice in I.A. Nos.186910/2022 and 20650/2023 to the Ministry of Environment, Forest and Climate Change and the National Tiger Conservation Authority (NTCA), returnable on 15.03.2023.
2. In addition to the usual mode, liberty is granted to the petitioner to serve notice through the Standing Counsel for the respondent/State.
3. A perusal of the report(s) would reveal that various constructions have been carried out within the area of the Tiger Reserve. The photograph would show that a cordoned area has been constructed between the Tiger Reserve.
4. Mr. Abhishek Attri, learned counsel appearing for the State of Uttarakhand, submits that the concept of jungle tourism permits such a safari to be constructed in jungle areas, and according to the learned counsel, such a phenomenon is acceptable worldwide.
5. Prima facie, we do not appreciate the necessity of having a zoo inside Tiger Reserves or National Parks. The concept of protecting Tiger Reserves and National Parks is that the fauna must be permitted to reside in the natural habitat and not the artificial environs.
6. We, therefore, call upon the NTCA to explain the rationale behind granting such a permission for permitting Tiger Safaris

## VERDICTUM.IN

within Tiger Reserves and National Parks.

7. Until further orders, we restrain the authorities from making any construction within the areas notified as Tiger Reserves and National Parks and Wildlife Sanctuaries.

8. The State of Uttarakhand is directed to file its reply in I.A. Nos.186910/2022 and 20650/2023, within three weeks.

### CONTEMPT PETITION (C) NO.302/2020 (ITEM NO.9.)

List on 13.02.2023

I.A. NOS.1868/2007, 2091/2007, 2225-27/2008, 2380/2008, 2568/2009 AND 2937/2010 (ITEM 10)

1. Since the issues involved in these applications is being considered by us in SLP(C) No.25047/2018, which has been kept after twelve weeks, we do not find it necessary to keep these applications pending. The applications are, accordingly, disposed of.

2. The affidavit(s) filed by the Union of India to be placed along with the proceedings in the said special leave petition.

I.A. NOS.2079/2007, 2301-02, 3044-45, 2771-72/2009, 111725 & 154041/2018 IN I.A. NO.2771-72/2009 and W.P. No.301/2008 (ITEM 11)

1. The State Government to file an affidavit explaining the present status with regard to the lands in question.

2. The same shall be done within a period of three weeks from today.

3. List on 15.03.2023.

I.A. NO.63946/2017, 35372/2017 AND 157034/2019 IN I.A.  
NO.35372/2017 (ITEM NO.12)

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1. Shri K. Parameshwar, learned Amicus Curiae, states that all these applications are filed seeking certain directions with regard to violation of forest laws including illegal constructions in Periyar Tiger Reserve in Ranni Forest Division. He submits that the Division Bench of the Kerala High Court known as 'the Devaswom Bench' is monitoring the issues pertaining to the same. He further submits that apart from that, a Special Commissioner, who is of the rank of the Additional District Judge, is also monitoring these issues. He further submits that there is also a high power committee under the chairmanship of a retired Judge of the High Court to oversee the implementation of the master plan.

2. Mr. Shetty, Member Secretary of the CEC, has a grievance that the Division Bench has passed several orders, which permit violation of the forest laws.

3. We find that since the Division Bench of the High Court of Kerala is seized of the issues, it will be appropriate that the applicants file appropriate proceedings before the Kerala High Court.

4. If anybody is aggrieved with the orders passed by the Kerala High Court, contending the same to be in contravention of the forest laws, the same can very well be challenged before this Court, which challenge would be considered in accordance with law.

5. These applications are, accordingly, disposed of.

I.A. NO.2930/2010, 3963/2017 AND 160714/2019 (ITEM NO.13)

List after four weeks.

I.A. NO.3927/2016 (ITEM NO.14)

List on 13.02.2023.

I.A. NOS.96990, 96992 OF 2019 and I.A. No.134037/2020 (ITEM NO.15)

1. Learned counsel appearing for the applicant(s) seeks permission to withdraw I.A. NOS.96990, 96992 OF 2019.
2. Permission is granted.
3. The applications are, accordingly, dismissed as withdrawn.
4. I.A. NO.134037/2020 is, accordingly, disposed of.

I.A. NOS.2858/2010 AND 36565/2021 (ITEM NO.16)

1. It is appropriate that the present applications are heard along with SLP(C) Nos.26868-73/2014, inasmuch as the issues are inter related to each other.
2. The Registrar (Judl.) is directed to place these applications before Hon. the Chief Justice of India for placing them before an appropriate Bench.

I.A. NO.41723/2022 (ITEM 17)

List on 13.02.2023.

I.A. NO.184657/2022 (ITEM NO.19)

List after eight weeks.

IA NOS.26655/203 AND 26663/2023 (ITEM NO.20)

1. Application for impleadment is allowed to the extent of directions.
2. Issue notice in I.A. No.26663/2023, returnable on 15.03.2023.

C.A. NO.12234-35/2018 (ITEM NO.21.1 IN THE LIST)

I.A. No.39315/2021 is allowed.

List on 15.03.2023.

I.A. NO.5891/2019 (Status of Funds)

List on 13.02.2023.

I.A. NOS.87648/2020, I.A. NO.27111/2023

Taken on Board.

List on 13.02.2023.

I.A. NOS.28958/2023

Taken on Board.

List on 13.02.2023.



**I.A. Nos.3949/2016, 124224, 124225, 124229 and 124230 of 2020 (item No.22)**

**List on 15.03.2023.**

**(NARENDRA PRASAD)  
ASTT. REGISTRAR-cum-PS**

**(ANJU KAPOOR)  
COURT MASTER (NSH)**

**(Signed order, as above, is placed on the file)**

**VERDICTUM.IN**

**IN THE SUPREME COURT OF INDIA  
INHERENT JURISDICTION**

**CONTEMPT PETITION (C) NO.941/2021**

**IN**

**WRIT PET. (C) NO.202/1995**

**DEEPAK S. TANWAR**

**PETITIONER(S)**

**VERSUS**

**SH. KHEM CHAND GOYAL  
THE THEN MINING ENGINEER, ALWAR**

**ALLEGED CONTEMNOR(S)**

**O R D E R**

**No case for contempt is made out. The contempt petition is, accordingly, dismissed.**

**Pending application(s), if any, shall stand disposed of.**

.....J  
**( B.R. GAVAI )**

.....J  
**( VIKRAM NATH )**

**NEW DELHI;  
FEBRUARY 08, 2023**