

ITEM NO.16

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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 APPLICATION FOR 24.04.2024 "ONLY" [1] INTERLOCUTORY APPLICATION NOS. 85332 AND 85124/2023 [APPLICATIONS FOR INTERVENTION AND DIRECTIONS] WITH INTERLOCUTORY APPLICATION NOS. 60136 AND 60352/2024 (APPLICATIONS FOR INTERVENTION FILED BY MR. ANURAG TANDON, ADVOCATE IN I.A. NO. 85332/2023) WITH INTERLOCUTORY APPLICATION NOS. 64180 AND 64434 OF 2024 [(APPLICATIONS FOR INTERVENTIONS FILED BY MR. ANURAG TANDON, ADVOCATE ON BEHALF OF "BILIBAR PATAR" AND "HARICHANDRA BORO", APPLICANTS RESPECTIVELY IN I.A. NO. 85332/2023) IN RE : ROHIT CHOUDHARY AND [2] [i] I.A. NO. 19010/2019 [APPLICATION FOR DIRECTIONS] WITH [ii] I.A. NO. 75982/2019 [APPLICATION FOR EXEMPTION FROM FILING O.T] WITH [iii] I.A. NO. 86706/2019 [APPLICATION FOR DIRECTIONS] WITH [iv] I.A. NO. 90640/2019 [APPLICATION FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS] WITH [v] I.A. NO. 122128 AND 122130/2019 [APPLICATION FOR EXTENSION OF TIME AND EXEMPTION FROM FILING O.T., FILED BY MR. NISHANT R. KATNESHWARKAR, ADVOCATE] WITH [vi] I.A. NO. 129260 AND 129264/2019 [APPLICATION FOR IMPLEADMENT AND DIRECTIONS] FILED BY MR. RAVINDRA KESHAVRAO ADSURE, ADVOCATE] AND [vii] I.A. NO. 129279/2019 [APPLICATION FOR DIRECTION] FILED BY MR. GOPAL BALWANT SATHE, ADVOCATE AND [viii] I.A. NOS. 150901 AND 150915/2019 [APPLICATIONS FOR INTERVENTION AND DIRECTION FILED BY MS. MAYURI RAGHUVANSHI, ADVOCATE IN RE : CONSERVATION ACTION TRUST, MAHARASHTRA AND [3] INTERLOCUTORY APPLICATION NOS. 36847 & 36852/2024 [APPLICATIONS FOR IMPLEADMENT AS CO-PETITIONER AND DIRECTIONS FILED BY MR. GAURAV KUMAR BANSAL] IN RE : MR. GAURAV KUMAR BANSAL (APPLICANT-IN-PERSON) AND [4] INTERLOCUTORY APPLICATION NOS. 66542, 66546, 66548/2024 [APPLICATIONS FOR IMPLEADMENT AS PARTY RESPONDENTS , DIRECTIONS AND STAY FILED BY MS. RANI MISHRA, ADVOCATE] IN RE : VANRAMCHHUANGI & ORS. IN WRIT PETITION (CIVIL) NO. 202/1995 "ONLY" ARE LISTED IN W.P.(C) No. 202/1995 "ONLY" ON 24.04.2024 AND THE NAMES OF "ONLY" THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN AGAINST THESE I.As. MR. HARISH N. SALVE, SR. ADV. [A.C.], MR. A.D.N. RAO, SR. ADVOCATE [A.C.], MS. APARAJITA SINGH, SR. ADVOCATE [A.C.], MR. SIDDHARTHA CHOWDHURY, ADVOCATE [A.C.] MR. K. PARAMESHWAR, ADVOCATE [A.C.] MR. G.S. MAKKER FOR S.NO. [1] MS. SHIBANI GHOSH, MR. ANURAG TANDON FOR S. NO. [2] [i and viii] MS.

VANSHAJA SHUKLA, MR. NISHANT R. KATNESHWARKAR, MR. GOPAL BALWANT SATHE, MR. RAVINDRA KESHAVRAO ADSURE, MS. MAYURI RAGHUVANSHI MS. MRIDULA RAY BHARDWAJ FOR S.NO. [3] MR. GAURAV KUMAR BANSAL (APPLICANT-IN-PERSON) FOR S.NO. [4] MS. RANI MISHRA, ADVOCATE)

Date : 24-04-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

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Mr. Vijay Singh, Adv.

Mr. Partap Ranjan, Adv.

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

I.A. NOS. 85332 & 85124/2023, 60136 & 60352/2024, 64180 and 64434 OF 2024

1. Mr. Nalin Kohli, learned Senior Additional Advocate General appearing for the State of Assam submits that there are certain issues with regard to the boundaries of the Pobitora Wild Life Sanctuary. He further submits that there are also various issues with regard to the settlement of rights of the villagers, including the Scheduled Castes, Scheduled Tribes, Other Backward Classes and marginalized communities residing within the notified boundaries of the Pobitora Wild Life Sanctuary before 1998.

2. It is further submitted that the inhabitants in the Pobitora Wild Life Sanctuary areas and the villages in the fringe areas should be treated as active partners in the settlement process and not an adversaries.

3. An affidavit was filed on behalf of the State indicating that a Cabinet meeting was held with an aim to protect the rights of the villagers and to ensure that the same were appropriately addressed and resolved. A Committee of officials comprising of the following members has been constituted to

look into these issues:

- a) Special Chief Secretary (Forest) - Chairman
- b) District Commissioner, Morigaon - Member
- c) District Commissioner, Kamrup (Metro) - Member
- d) Divisional Forest Officer Nagaon Division - Member
- e) Divisional Forest Officer Guwahati Wildlife Division - Secretary

4. Learned counsel for the applicant and the learned Amicus Curiae submit that except a bald statement that the rights of the villagers residing in the Pobitora Wild Life Sanctuary area are not settled, no material has been placed on record to substantiate the said stand.

5. *Prima facie*, from the perusal of the map, it appears that the State proposes to delete a smaller area from the Wild Life Sanctuary and include a much larger area so as to account for the lands of the settlers and also address the issue of the growing population of the rhinoceros.

6. We find that even if the State proposes to alter the areas of the Pobitora Wild Life Sanctuary, the same cannot be done without prior permission of the National Board for Wild Life (for short 'NBWL'). Apart from that, the said matter can also be examined by this Court.

7. We find no prejudice would be caused to anyone if the

Committee does the exercise as proposed in the affidavit. In any case, as already stated above, the same will always be subject to the final decision by NBWL and a scrutiny by this Court.

8. Some concerns have been shown about the Committee with regard to the non-representation of the wild life wing of the Forest Department.

9. We find that in addition to the Members of the Committee as proposed, it will be appropriate to include the Chief Wild Life Warden of the State of Assam and also the Field Director of the Pobitora Wild Life Sanctuary as Members of the said Committee so that the concerns with regard to the wild life are also addressed by the said Members.

10. List these applications on 23.10.2024.

I.A. No. 19010/2019, 75982/2019, 86706/2019, 90640/2019, 122128 AND 122130/2019, 129260 & 129264/2019, 129279 and 150901 & 150915/2019

1. As prayed, two weeks' further time is granted to file reply affidavit by way of a last chance.

2. List these applications on 08.05.2024.

IA NOS. 36847 & 36852/2024

1. The perusal of the report prepared by the Wildlife Institute of India (for short 'WII') would reveal that the WII has come to a finding that the construction of the four dams, namely, Chikan Dam, Kansli Dam, Ambawali Dam and Khillanwalla

in Kalesar Wildlife Sanctuary, Haryana will not only be determinantal to the Wild Life population but also to the ecosystem.

2. The report further observed that even the purpose for which these dams are proposed, could not be achieved. The PCCF and the Chief Wild Life Warden vide communication dated 01.08.2019 also concurs with the opinion given by the WII.

3. The report would further reveal that eight earthen dams were constructed by the Forest Department which are located near the proposed dams. It is important to note that these dams are frequently used by most of the mammalian species found in the area. It is also stated that the construction of the proposed dams would alter the natural water storage capacity of earthen dams during the monsoon.

4. Taking into consideration these aspects of the matter, issue notice, returnable on 24.07.2024.

5. Until further orders, we direct that no steps shall be taken for construction of the dams proposed.

IA Nos. 66542, 66546 & 66548/2024

1. The applicant is restricting his claim only to the aspect of National Highways and Infrastructure Development Corporation Ltd. (NHIDCL) being permitted to carry out the construction of the roads on forest land without even seeking permission under Section 2 of the Forest Conservation Act.

2. Leave to implead the necessary parties as party respondent(s) is granted.
3. Amendment be carried out forthwith.
4. Issue notice, returnable on 24.07.2024.

I.A. No. 81043 of 2024

List this application on 08.05.2024.

I.A. No. 75002/2024

1. Learned counsel for the applicant seeks permission to withdraw this application with liberty to take such steps as may be permissible in law.
2. Permission is granted.
3. Hence, the application is disposed of as withdrawn with liberty as prayed for.

I.A.No. 98622 of 2024 (CEC Report No. 4 of 2024)

1. *Prima facie*, we find that the action of the Delhi Development Authority in felling the trees and constructing the road is in contempt of the orders passed by this Court dated 8th February, 2023 so also the order dated 4th March, 2024.
2. Issue notice to the Vice-Chairman, Delhi Development Authority, Vikas Sadan, INA, New Delhi-110002 returnable on 08th May, 2024, calling upon to show cause as to why an action

for committing the contempt of the orders passed by this Court dated 8th February, 2023 and 4th March, 2024 be taken against him.

3. The Registrar (Judl.) shall ensure that the notice be served upon the Vice Chairman, Delhi Development Authority.

IA Nos. 1424-1425 of 2005 and 2749 of 2009 and 2211/2008 and 3427/2012, 167802 & 167804/2019, 187590 and 187591 of 2019 with Contempt Petition (C) No. 388 of 2019 in IA Nos. 1424-1425 of 2009 in W.P.(C) No. 202 of 1995, SLP(C) No. 37511/2013 and W.P.(C) No. 469 of 2005

List these matters/applications on 08.05.2024

IA No. 920 of 2003 in I.A. No. 703 of 2001 and IA Nos. 988/2003, 1129/2004 & 1151/2004 in IA No. 920 of 2003

List these applications on 08.05.2024.

I.A. Nos. 86132 and 86271 of 2021 and I.A. Nos. 186910 of 2022, 52187 of 2023m 66719/2021, 140286/2023, 197410 & 197412 /2023 and IA Nos. 197351 and 2665 of 2024 and Contempt Petition(C) No. 319 of 2021

List these applications on 08.05.2024.

IA No. 2930 of 2010, 3963 of 2017, 160714 of 2019, 77320 of 2023 and 79064 of 2023

1. Heard Mr. Dama S. Naidu, learned senior counsel appearing for the applicant(s) and Mr. Sunny Choudhary, learned counsel appearing for the State.

2. Arguments concluded.

3. Order is reserved.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)