

ITEM NO.304

COURT NO.12

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.

Respondent(s)

("ONLY"[1] (i) INTERLOCUTORY APPLICATION NOS. 122225 AND 122197/2022 [APPLICATIONS FOR PERMISSION AND DIRECTIONS ON BEHALF OF SATLUJ JAL VIDYUT NIGAM LTD. (SJVN)] WITH

(ii) INTERLOCUTORY APPLICATION NOS. 15261, 15262 AND 15264 OF 2022 [APPLICATIONS FOR IMPLEADMENT, EXEMPTION FROM FILING O.T. AND DIRECTIONS ON BEHALF OF NHAI] AND

(iii) INTERLOCUTORY APPLICATION NO. 100173 OF 2022 [APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.] AND

(iv) INTERLOCUTORY APPLICATION NOS. 132892 AND 132879 OF 2022 [APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.] AND

(v) INTERLOCUTORY APPLICATION NO. 160157 OF 2021 [APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.] AND

(vi) INTERLOCUTORY APPLICATION NO. 87648 OF 2020 [APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.] AND

(vii) INTERLOCUTORY APPLICATION NO. 132905 OF 2022 [APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.]

IN INTERLOCUTORY APPLICATION NO. 2370 OF 2007 (disposed of) [APPLICATION FOR DIRECTIONS ON BEHALF OF STATE OF H.P.]

IN INTERLOCUTORY APPLICATION NO. 3840 (Disposed of) [APPLICATION FOR PERMISSION FOR CARRYING OUT SILVICULTURAL FELLING OF TREES] IN RE : SILVICULTURE FELLING OF TREES IN THE STATE OF HIMACHAL PRADESH AND [2] CONTEMPT PETITION (CIVIL) NO. 319 OF 2021 WITH INTERLOCUTORY APPLICATION NOS. 66718 OF 2021 AND 66719 OF 2021 (APPLICATIONS FOR SEEKING PERMISSION TO APPEAR AND ARGUE

IN PERSON AND EXEMPTION FROM FILING NOTORIZED AFFIDAVIT) IN INTERLOCUTORY APPLICATION NO. 90182 OF 2019 (APPLICATION FOR DIRECTIONS)

IN RE : RAJAJI TIGER RESERVE, UTTARAKHAND AND

[3] CONTEMPT PETITION (CIVIL) NO. 861 OF 2021 IN INTERLOCUTORY APPLICATION NO. 424 OF 1998

IN RE : BHAVREEN KANDHARI AND

[4](i) INTERLOCUTORY APPLICATION NOS. 110338 AND 110348 OF 2022 [APPLICATIONS FOR INTERVENTION AND DIRECTIONS] WITH INTERLOCUTORY APPLICATION NOS. 137123 AND 141500 OF 2022 [APPLICATIONS FOR PLACING ON RECORD ADDITIONAL DOCUMENTS IN I.A. NO. 110338 OF 2022 AND EXEMPTION FROM FILING O.T.]

IN RE : CREDAI-MCHIWITH

(ii) INTERLOCUTORY APPLICATION NOS. 126874 AND 136829 OF 2022 [APPLICATIONS FOR DIRECTIONS AND FOR PERMISSION] IN RE : NAREDCO WEST FOUNDATION (MAHARASHTRA) AND

(iii) INTERLOCUTORY APPLICATION NO. 132902 OF 2022 [APPLICATION FOR SEEKING EXTENSION OF TIME]

IN RE : STATE OF HIMACHAL PRADESH IN INTERLOCUTORY APPLICATION NO. 1000 OF 2003 (Disposed of) [RECOMMENDATION OF CEC DATED 20.11.2003] AND [5] INTERLOCUTORY APPLICATION NOS. 47249, 47252 AND 47644 OF 2021 [APPLICATIONS FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM FILING O.T.]

IN RE : NMDC LTD. IN WRIT PETITION (CIVIL) NO. 202/1995 "ONLY" ARE LISTED IN W.P.(C) No. 202/1995 "ONLY" ON 23.09.2022

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. G.S. MAKKER FOR S.NO. [1] MR. ABHINAV MUKERJI [STATE OF HIMACHAL PRADESH], MR. AJIT PUDUSSERY (SJVN), MR. CHANCHAL KUMAR GANGULI (NHAI) FOR S.NO. [2] MR. GAURAV KUMAR BANSAL FOR S.NO. [3] MR. MANAN VERMA FOR S.NO. [4] M/S. DSK LEGAL, MR. KUSH CHATURVEDI, MR. ABHINAV MUKERJI FOR S.NO. [5] MR. GAICHANGPOU GANGMEI)

Date : 23-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE J.B. PARDIWALA

For the parties :

By Courts Motion, AOR

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Mr. T.K. Nayak, Adv.
Mr. Marbiang Khongwir, Adv.
Mr. Shaurya Sahay, Adv.

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

We appoint Mr. K. Parmeswar, learned AOR as an Amicus Curiae, in addition to other Amicus Curiae appointed in these matters. Registry is directed to supply Paper Books of the pending I.As. to Mr. K. Parmeswar, learned AOR.

INTERLOCUTORY APPLICATION NO.122197/2022 along with I.A. 122225/2022

For the reasons stated in the application, the application is allowed. The diversion of 397.8863

hectares of forest land in Himachal Pradesh for construction of the Sunni Dam Hydroelectric Project is permitted subject to the conditions as stipulated in Environment and Forest Clearance. IAs. shall stand disposed of.

INTERLOCUTORY APPLICATION NO.15264/2022 along with IA Nos. 15261 and 15262/2022

For the reasons stated in the application, the application is allowed in terms of prayer Clause (c) of the application in IA NO.15264/2022. IAs. shall stand disposed of.

I.A. Nos.100173/2022, 132892 and 132879/2022 160157/2021, 87648/2020, 132905/2022 in I.A. No. 2370/2007

Post these I.As. on 30.09.2022.

I.A. No.110348/2022 along with I.A. No.110338/2022, 137123/2022, 141500/2022

This application is filed for seeking clarification of the Judgment dated 03.06.2022 passed by this Court in I.A. No.1000 of 2003 etc. It is submitted by the applicant that the eco-sensitive zone(ESZs) around Sanjay Gandhi National Park has already been notified vide Final Notification No.S0 3645(E) dated 05.12.2016. It is further submitted that the eco-sensitive zone around Thane Flamingo Creek Sanctuary has already been notified vide final notification being S.O. 4293(E) dated 14.10.2021.

It is therefore submitted that the judgment

and order dated 03.06.2022 which directs that each protected forest, that is a National Park or Wildlife Sanctuary must have eco-sensitive zone of minimum one kilometre wide, would not be applicable to the Sanjay Gandhi National Park as well as the Thane Flamingo Creek Sanctuary.

Perusal of our Judgment and Order dated 03.06.2022 would reveal from paragraph 17 that the Court had noticed a draft notification dated 08.04.2021 concerning Thane Flamingo Creek Sanctuary that was already published by MoEF&CC, and Court noted that after a final decision was taken in respect of the said draft notification, the matter be placed before the Court. It appears however, that the final notification dated 14.10.2021 was already issued before the order dated 03.06.2022. The same was not brought to the notice of the Court.

The order would reveal that the Court had further noted that a one kilometre wide "no development zone" may not be feasible in all cases. Specific instances with regard to Sanjay Gandhi National Park and Guindy National Park have also been made in paragraph 42 of the Judgment.

Though Mr. A.D.N. Rao, learned Amicus Curiae submitted that the matter be referred to CEC or he may be granted an opportunity to file reply, we see no reason as to why the clarification as sought for

should not be granted.

The Notification dated 05.12.2016 in respect of Sanjay Gandhi National Park as well as the Notification dated 14.10.2021 in respect of Thane Flamingo Creek Sanctuary have been issued after following the entire procedure as prescribed under the law.

Mr. Tushar Mehta, learned Solicitor General appearing for the State of Maharashtra as well as for the Union of India also submits that in view of the final notifications being issued there should be no impediment in granting the relief as prayed for.

In that view of the matter, we are inclined to allow the application in terms of prayer Clauses B to E of the application in I.A. No.110348/2022. IAs. shall stand disposed of.

IA. No.126874/2022 along with I.A. No.136829 of 2022

In view of the order passed in I.A. No.110348/2022 above, no orders are required to be passed in the present application since this I.A. would be governed by the said I.A. IAs. stands disposed of accordingly.

I.A. No.132902 of 2022

For the reasons stated in the application, the application is allowed. The time to prepare a list of

subsisting structures and other relevant details within the respective ESZs is extended for a further period of four months.

IA Nos.47252, 47249 and 47644 of 2021

Post these I.As. On 14.10.2022.

(Geeta Ahuja)
Astt. Registrar-Cum-PS

(Anju Kapoor)
Court Master