

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPALBENCH**

Through Physical Hearing with Hybrid VC Option)

Original Application No.525/2022
(Interim Application No.185/2022)

Laxmi

...Applicant

Versus

Ministry of Environment, Forests
& Climate Change & Others

...Respondents

Date of hearing: 17.10.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant Mr. Keshan Kumar and Mr. Rahul Bhisoya, Advocates

Respondents: Mr. Kumar Rajesh Singh, Advocate for Respondent no. 1
(MoEF & CC).
Ms. Jyoti, Advocate alongwith Mr. Mandeep Mital, DCF-
South for respondent no. 3.
Ms. Kritika Gupta, Advocate for respondent no. 4.
Mohd. Waseem Akram and Mr. Arnab Chakraborty
Advocates for Respondent no. 7.
None for Respondents no. 2, 5 and 6

Application under Sections 14 and 15 of the National Green Tribunal Act, 2010.

ORDER

1. The applicant, claiming to be an environmentalist working for protection and preservation of the environment, has filed the present application under Sections 14 and 15 of the National Green Tribunal Act, 2010 for directions to the respondents No. 1 to 6 to prevent the misuse of forest land and its destruction at the hands of respondent No.7- Hanslok Ashram and its followers.

2. Vide order dated 22.07.2022, notice of the O.A as well as I.A was ordered to be issued to the Respondents. Accordingly, notice was served on Respondents No. 1 to 6 by way of email and on Respondent no. 7 personally and affidavit was filed by the applicant in this regard. None appeared on

behalf of Respondents no 2, 3, 5 and 6 who were accordingly proceeded against ex-parte.

3. Reply/response on behalf of Respondent no. 6 and Short affidavit on behalf of Respondent no. 7 were filed by way of email dated 23.07.2022 and 24.07.2022 respectively.

4. On the previous date of hearing Learned Senior Counsel for Respondent no. 7 conceded that in the chart forming part of the Short Affidavit filed on behalf of Respondent no. 7, there were discrepancies as to the area owned and possessed by M/s Ashson/Hans Foundation/M/s R.D.G/ M/s R.G.S.B due to typographical mistakes and Learned Counsel for Respondent no. 7 sought time to amend short affidavit to correct the particulars in the chart. Amended affidavit has been filed without filing any application for amendment of the affidavit. Learned Counsel for respondent no. 7 seeks time to file the application for amendment of the affidavit.

5. The applicant has also not filed rejoinder and documents. Learned counsel for the applicant seeks time to file rejoinder and documents on the ground that he has been engaged only two days back and does not have the case file.

6. The Deputy Conservator of Forests, South has appeared through VC and we have interacted with him. The Deputy Conservator of Forests, South has stated that the matter of demarcation of the land in question is pending with the Revenue Authorities and Writ Petition regarding part of the land in question is also pending before the Hon'ble Delhi High Court. In the course of interaction Deputy Conservator of Forest, South has admitted that after filing of the present application he did not visit the land in question either at the time of or after celebration of the event in question and no specific report

in respect of the land in question in reply to the application was submitted to him by any of his Subordinate Officer/Official.

7. We find that despite service of notice none had appeared on behalf of respondents no. 2, 3, 5 and 6 on the previous date and none has appeared on behalf of respondents no 2, 5 and 6 even today. Ms. Jyoti, Advocate has appeared on behalf of respondent no. 3 and seeks time to file reply/response on behalf of respondent No.3.

8. The Administrative Authorities are guardians of Public Properties and are, under the Doctrine of Public Trust, bound to protect the same against encroachments and to take preventive, prohibitive and remedial action regarding any environmental degradation caused/likely to be caused by its unauthorized/impermissible use. We are constrained to observe that the concerned Administrative Authorities have exhibited complete lack of interest and insensitivity to the issue involved in the present environmental adjudication which is not essentially adversarial in nature. The issue of removal of encroachments on forest land is stated to be pending for lack of updation of the revenue record and demarcation of the land in question.

9. The Deputy Commissioner (South) Delhi is directed to take requisite steps and issue appropriate directions to the concerned Revenue Officers/Officials for updation of the revenue record and demarcation of the land in question and get the same completed within six weeks and submit a report to this Tribunal in this regard by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF within two months.

10. Rejoinder and documents by the applicant, reply/response on behalf of respondent no. 3 and the application for amendment of Short Affidavit by

Respondent no. 7 be filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF within two months.

11. List for further consideration on 08.02.2023.

12. In view of the facts and circumstance of the case, we also consider personal appearance of the Deputy Commissioner (South) Delhi and the Deputy Conservator of Forests, Shooting Range, Tugalkabad on the next date of hearing to be essential for producing the relevant documents regarding compliance with environmental norms and assisting this Tribunal in just and proper adjudication of the questions involved in the case and they are directed to remain present before this Tribunal on that date.

13. The Deputy Commissioner (South) Delhi, the Deputy Conservator of Forests, Shooting Range, Tugalkabad, New Delhi and the Commissioner of Police, Delhi are directed to take requisite steps to ensure protection of the land owned by the Forest Department and take appropriate action, by following due process of law, against encroachment or raising of any construction on, cutting of trees from or any other act of environmental degradation affecting any part of land comprised in khasra no. 848(6-11), 963 min(2-8), 969 min(1-11), 725(19-11), 729(4-4), 730 min(0-2), 954 min(8-8) and 961 min (7-13) situated at revenue estate of village Bhati, New Delhi recorded under ownership and possession of the Forest Department.

14. In the course of hearing on the previous date of hearing, it was alleged that some petition has been filed before Hon'ble High Court of Delhi on which stay orders had been passed by Hon'ble High Court of Delhi but neither of the contesting parties has submitted copy of the petition filed and orders passed by Hon'ble High Court of Delhi even today and it is not shown

that the same relate to the identical cause of action and subject matter. By way of abundant caution, we make it clear that nothing in this order shall affect operation of the stay order passed by the Hon'ble High Court of Delhi and operate in conflict thereof.

15. A copy of this order be forwarded to Deputy Commissioner (South) Delhi, the Deputy Conservator of Forests, Shooting Range, Tugalkabad, New Delhi and the Commissioner of Police, Delhi by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 17, 2022
AG