

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Execution Application No. 38/2022
IN
Original Application No. 165/2021
(I.A. No. 27/2023, I.A. No. 28/2023,
I.A. No. 41/2023, I.A. No. 112/2023 & I.A. No. 425/2023)

Girja Shankar Rai & Ors. Applicant(s)

Versus
State of Uttar Pradesh & Ors. Respondent(s)

Narendra Kushwaha Applicant in EA

Date of hearing: 10.10.2023

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Akash Vashistha, Adv. for Applicant

Respondent(s): Mr. Bhanwar Pal Singh Jadon with Mr. Chetan Jadon, Advs. for the
State of UP
Mr. Sanobar Ali, Adv. in I.A's No. 27-28/2023

ORDER

1. In the original application (165/2021), the issue in respect of protection of Laxmi Tal at Jhansi from unauthorized encroachments and pollution and preventing entry of untreated sewage and sullage was raised.
2. The original application was disposed of by order dated 14.09.2022 and the present execution application is for implementation of the order passed by the Tribunal.
3. On 14.12.2022, the Tribunal had taken note of the issue of compliance of the order and constituted an independent committee and called for a report from the said committee.

4. The report dated 25.03.2023 has been filed by the committee stating that in the area which is registered as talab, two illegally constructed houses were found. It has been submitted by the Counsel for the State of UP that both the houses have now been demolished. The report further states that in the area concerned 07 temples and 01 majar were also found to whom the notices for demolition were issued and on account of the protest by the local people further action could not be taken. It is stand of the Counsel for the State of UP that against all the 08 religious structures demolition proceedings are pending. He has also referred to the part of the report where it is stated that 07 drains namely Kuberu nalla; Kasai Mandi Nalla; Laxmi Tal Nalla; Joshiyana Nalla; Banglaghat Nalla; Dimeryana Nalla and Om Shanti Nagar Nalla were flowing into the Laxmi Tal earlier since before and the sewage from these drains is being treated through STP and the dirty water of none of the drain is now flowing to Laxmi Tal or any other place.

5. It has been disclosed that STP is treating on an average 17 MLD to 26 MLD sewage and out of which 4 MLD treated water is further treated and discharged in Laxmi Tal and remaining treated water is discharged in Naryan Bagh drain. In the report it is mentioned that water quality of the treated sewage is within the prescribed parameters.

6. The Learned Counsel for State of UP has failed to point out any report relating to the content of fecal coliform in the treated water discharge from the STP as also the water quality of Laxmi Tal. Let the same be disclosed in the next report.

7. The report also contains photograph of Laxmi Tal taken at the time of spot inspection which reveals that an elevated boundary wall to support the steel fencing surrounding Laxmi Tal has been constructed. The same is likely to effect the inflow of water from the catchment area into the Tal

and may have adverse effect on the survival of the Tal. Therefore, the Commissioner, Municipal Corporation, Jhansi is directed to submit the report in respect of the construction of the elevated boundary wall and path way surrounding the buffer zone Laxmi Tal and its likely adverse effect on the Tal or expected benefits therefrom.

8. Let further report by the joint committee as also the report by the Commissioner, Municipal Commissioner, Jhansi in terms of the above observations be filed within six weeks by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

9. **I.A. No.27/2023:-** this application has been filed by one Mohammad Aslam Khan @ Sufi Abdul Salam Khan. The application is under Order 1 Rule 10 of the CPC for impleadment. While arguing the application, an attempt has been made by the Counsel for the Applicant to demonstrate to the Tribunal that the Majar in question is a Waqf property and is not an encroacher. He has not disputed that the competent authority has already issued a notice of demolition to the Majar in question and the proceedings are pending before the authority wherein this issue will be examined. In the said background, Counsel for the Applicant in I.A. has made prayer for withdrawal of the I.A. No. 27/2023 with liberty to raise all the relevant issues before the concerned authority. The prayer is allowed. I.A. No. 27/2023 is dismissed as withdrawn with liberty as prayed.

10. In the said background, I.A. No. 28/2023 filed by the same Applicant with a prayer to stay the operation of the notices dated 27.12.2022 and 24.01.2023 also does not survive and same is disposed of with same liberty as granted in the above order passed in I.A. No. 27/2023.

11. List the matter on 03.01.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

October 10, 2023
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JG