

Item No. 1A

Court No. 1

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

Original Application No. 501/2023
(IA No. 663/2023)

Aarti Joshi

Applicant

Versus

State of Uttarakhand & Ors.

Respondent(s)

Date of completion of hearing and reserving of order: 23.04.2024
Date of Pronouncement of order: 16.05.2024

**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. Dushyant Pratap Singh, Mr. Shashank Singh & Mr. Varyam Pandey,
Adv. for Applicant

Respondent: Mr. Mukesh Verma, Adv. for UKPCB
Ms. Anjali Rajput, Adv. for the State of Uttarakhand
Mr. Ashutosh Kumar Sharma & Ms. Ayushi Mittal, Adv. for R - 4 to 6

ORDER

1. In this original application, allegation of the Applicant is in respect of destruction of trees by Respondent No. 4, Hajinder Pal Singh.
2. Plea of the Applicant is that on 24.04.2019, Divisional Forest Officer, Musoorie Forest Division had granted permission to Respondent No. 4 for clearing Lantana bushes on his private land in the area of Dom village. The plea of the Applicant is that 759 trees of different species were existing on the land and in the guise of clearing Lantana bushes, Respondent No. 4 was cutting Khair trees around water source of the area and was uprooting trees by JCB, earth mover machines. It is further alleged that boundary of the land of Respondent No. 4 is adjoining with area of village Bhandargaon which is a reserved forest. Further, plea of the Applicant is that boundaries of land of Respondent No. 4 and land of adjoining SalanGaon Gram Panchayat, Bhagwantpuris catagorised as jungle jhadi which has been

encroached upon and trees are being cut in the guise of permission to clear Lantana bushes. On 27.04.2022, DFO, Musoorrie had written to the Revenue Authorities for a joint inspection for demarcation of boundaries of reserved forest. The stand of the Applicant is that these 759 trees have been destroyed by Respondent No. 4.

3. Tribunal by order dated 18.08.2023 had issued notice to the respondents and had also formed a joint committee with a direction to the committee to visit the place and submit a factual action taken report.

4. The joint committee has filed the report dated 04.11.2023 disclosing that during the joint inspection it was found that Khasra No.325, 3343, 368 to 378 total area 40.10 acre is registered in the name of Respondent No. 4, Hajinder Pal Singh. It is further stated that Khasra No.56 area 2.1160 hectare which is divided in three parts is jungle jhadi registered in the name of PWD roads. Report further states that for Khasra No.378 area 6.5960 hectare, which is an uneven and sloppy land, permission was granted for making it plain for agricultural purpose and constructing poly house with certain conditions including the condition that no damage to the trees will be caused and that the work will be done by using JCB machines. Joint inspection of work of making the land plain and constructing poly house was done on 16.05.2023 by the joint committee and it was found that vacant land was made even and poly house was constructed in an area of 50 meters. Committee further found that trees which are existing at the site are 3 meter away from the proposed area and no felling of tree has taken place. The joint committee further found that as per revenue record Khasra No. 378 area 6.5960 hectare is not registered as jungle jhadi but it is registered as agricultural land and it is not a land of reserved forest. Joint committee further found that on the vacant land 135 trees of different species and girth/bushes are existing which are not

obstructing the work of making the land plain. Joint committee has given geo-coordinates of the work of making the land plain and construction of poly house and stated that no forest law has been violated. The findings of the joint Committee in this regard are as under:-

“प्रश्नगत भूमि, मौजा डोम गाँव में खसरा संख्या 378, रकबा 6590 के पुरतानिर्माण एवं समतलीकरण के सम्बध में दिनांक 16.05.2023 में राजस्व एवं वन विभाग की संयुक्त समिति द्वारा स्थल निरीक्षण किया गया, जिसके अनु सम्बंध (संलग्नक-03)

1. मौजा डोमगाँव के खसरा संख्या-378 रकबा 6.5960 है० भूमि राजस्व अभिलेखों में श्री हरजेन्द्र पाल सिंह के नाम दर्ज है।
2. उक्त भूमि में कुल खाली स्थान में समतलीकरण एवं 50 मीटर पुस्ता निर्माण किया गया है।
3. उक्त भूमि पर जो वृक्ष विद्यमान है व वृक्ष प्रस्तावित कार्यों से 3 मीटर से अधिक दूरी पर स्थित है। अतः किसी भी वृक्ष का पातन नहीं किया जाना है।
4. मौजा डोमगाँव के खसरा संख्या 378 रकबा 6.5960 है० भूमि राजस्व अभिलेखों में जंगल झाड़ी में दर्ज नहीं है तथा कृषि भूमि में दर्ज है। उक्त भूमि आरक्षित वन का भाग नहीं है, खाली भूमि पर 135 वृक्ष विभिन्न प्रजाति एवं व्यास वर्ग के अव्यवस्थित हैं. जो समतलीकरण कार्य में बाधक नहीं हैं।
5. समतलीकरण एवं पुस्ता निर्माण की जी०पी०एस० सहित निम्न प्रकार से है-

क्रमसंख्या	अक्षांश	देशान्तर
1.	E-30°-24°-45.86°	E-78°-04°-38.71°
2.	E-30°-24°-44.72°	E-78°-04°-40.11°
3.	E-30°-24°43.59°	E-78°-04°-39.3°
4.	E-30°-24°-43.14°	E-78°-04°-37.99°
5.	E-30°-24°-42.58°	E-78°-04°-38.58°
6.	E-30°-24°-40.92°	E-78°-04°-38.07°
7.	E-30°-24°-39.14°	E-78°-04°-37.3°
8.	E-30°-24°-41.39°	E-78°-04°-32.57°
9.	E-30°-24°-42.45°	E-78°-04°-33.81°
10.	E-30°-24°-43.19°	E-78°-04°-33.42°
11.	E-30°-24°-44.69°	E-78°-04°-35.03°
12.	E-30°-24°-44.23°	E-78°-04°-37.04°

6. मौजा डोमगाँव क्यारकुली भट्टा में निजि भूमि में किसी भी गैर वानिकी कार्य करने पर वन संरक्षण आधिनियम 1980, के प्राविधान लागू नहीं होंगे और न ही किसी वन कानून का उल्लंघन होगा।

दिनांक 19.09.2023 को किये गये समिति के निरीक्षण में पाया गया कि:-

1. खसरा संख्या-378 रकबा 6.590 है० भूमि को समतलीकरण कर 50 मीटर के लगभग पुस्ता/दीवास का निर्माण किया गया है। (फोटोग्राफ्स संलग्न, संलग्नक-04)
2. समतलीकरण की गयी भूमि में वृक्षों के पातन दृष्टिगत नहीं हुए तथा समतलीकरण के लिए दर्शाई गयी भूमि पर कोई वृक्ष नहीं है।
3. माननीय उच्च न्यायालय, नैनीताल में जनहित याचिका संख्या 126/2023 आरती जोशी बनाम् उत्तराखंड राज्य एवं अन्य विचाराधीन है, जिसकी अगली सुनवाई दिनांक 08.04.2024 को नियत है। (संलग्नक-05)”

5. A separate report by District Magistrate, Dehradun has been filed indicating the same factual position which is indicating in the report of the joint committee. Though, applicant has filed response to the report of the joint committee as also report of the District Magistrate, Dehradun but he has not enclosed any cogent material on the basis of which conclusion drawn by the joint committee can be doubted. Along with response, he has enclosed photocopy of some old khasra of one year but that is not enough to reject the finding of the joint committee which has been arrived at after inspection of the revenue record.

6. Thus, we find that applicant has not been able to substantiate his plea of illegal cutting of trees by Respondent No.4.

7. Hence, OA is dismissed.

8. Pending IA (663/2023) is disposed of accordingly.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 16th, 2024
Original Application No. 501/2023
(IA No. 663/2023)
JG.