

Item No. 04

Court No. 2

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

(Through Physical Hearing with Hybrid VC Option)

Miscellaneous Application No. 114/2023
IN
Original Application No.882/2022

Sanjeev Kumar

Applicant

Versus

Deputy Commissioner, Rupnagar & Ors.

Respondents

Date of hearing: 04.01.2024

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

Applicant: None for the applicant.

Respondent: Mr. Kartik K. Sood, Advocate for DC Una.
Dr. Preeti Yadav, DC Rupnagar (through VC).
Mr. Raghav Sharma, IAS, DC Una (through VC).
Mr. Sushil Kumar, DFO, Una (through VC).

Application under provisions of the National Green Tribunal Act, 2010.

ORDER

1. The applicant filed O.A. No. 882/2023 complaining about illegal felling of trees from a small forest owned and possessed by the Himachal Pradesh Forest Department.
2. Vide Order dated 06.11.2023 notices were ordered to be issued to the respondents for filing their response with all requisite details and copies of relevant documents on or before 31.12.2023.
3. In compliance thereof report has been filed by the Deputy Commissioner, Una vide email dated 16.12.2023 and by the Deputy Commissioner, Rupnagar vide emails dated .01.02.2024.

4. The relevant part of the report/response submitted by District Magistrate, Una vide email dated 16.12.2023 reads as under:

“X X X X

It is further submitted that after receiving the aforesaid order dated 06.11.2023 of the Hon’ble National Green Tribunal, the Divisional Forest Officer, Forest Division Una District Una (HP) vide this office letter No.3249/DRO/NTLR dated 24.04.2023 (Copy annexed as Annexure-A) was requested to send a detailed fresh action taken report in compliance of aforesaid directions of Hon’ble National Green Tribunal to this office. The Deputy Conservator of Forests, Una Forest Division Una (H.P.) vide his office letter No.8809 dated 04.12.2023 (copy annexed as Annexure-B) has reported that the demarcation of the alleged area has been carried out by Revenue Department Punjab in the presence of District Revenue Officer Una, Tehsildar Una and other revenue officials and Range Forest Officer Una with his team on 29.08.2023. He has also reported that as per Award No. 132/H dated 19.10.1954, 133/H dated 19.10.1954 and supplementary Award No. 132/H dated 19.10.1954/16.11.1955 as per site plan presented by Shri Sandeep Chauhan, Officer of Northern Railway, Nangal Township (Pb). Out of totl 34.01 Acre (13.76 ha) land, 1.77 Acre (4.38 ha) has been demarcated less on which land Railway line has been found constructed in some portion whereas in the remaining portion illegal encroachment has been found done by the locals. However as per demarcation, fencing on three sides of the demarcated land has been done whereas boundary pillars have been installed on the river side by lower Forest Field staff of Una Forest Range.”

5. The relevant part of the report/response submitted by District Magistrate, Rupnagar vide email dated 02.01.2024 reads as under:

“Status Report w.r.t orders passed by Hon’ble NGT in OA No. 882/2022 titled as “Sanjeev Kumar V/s Deputy Commissioner, Rupnagar & Ors.” on 06.11.2023.

X X X X

In compliance to directions given by Hon’ble Tribunal, Sub Divisional Magistrate has called up joint meeting of all stakeholders departments of Distt. Rupnagar and Distt. Una (HP) on 26/12/2023 and the concerned officials were requested to produce the relevant written record along with the requisite documentation. The compliances w.r.t. decisions of Hon’ble Tribunal are given as under:-

1) *In compliance to NGT orders, the demarcation of chunk of land was conducted by Joint Committee constituted by DC, Rupnagar, and DC Una on 29/8/2023. Accordingly, Tehsildar Nangal has supervised the demarcation work of the demarcation work of the land and fencing of the land has been carried out by the Forest Department of UNA, Himachal Pradesh.*

2) *As far as action regarding illegal felling of trees is concerned, due action in the form of FIR was initiated by DSP Nangal. The suit challan has also been produced in the court on dated 29/09/2023 and the next date of hearing is on 10/01/2024 in the court of SDM, Nangal.*

3) *An Environmental Compensation of Rs.1,31,500/- has already been calculated by DFO, Rupnagar and sent to District Forest Office, Una on 07.12.2023. Further, a letter has been written to DFO, Una for taking necessary action regarding recovery of Environmental Compensation and afforestation work vide DFO, Rupnagar letter dated 26.12.2023.*

4) *Strict action has been taken against the defaulters by the District Administration, Rupnagar and SSP Rupnagar and directions of Hon'ble tribunal have been fully complied with.*

5) *Necessary directions regarding extending immediate help to Himachal Pradesh Forest officials have been issued to SSP, Rupnagar, SDM, Nangal, DFO, and other concerned authorities, in order to stop and curb any further violation or encroachment activities.*

6) *Additional Deputy Commissioner (G) Rupnagar vide letter no.6929-30 dated 29/08/2023 has issued instructions to SSP, Rupnagar and SDM Nangal that no project shall be undertaken on the provincial land of Village Nikku Nangal without prior approval of Competent Authority under relevant Acts."*

6. The Deputy Commissioner, Una and the Deputy Commissioner Roopnagar have appeared through VC and we have interacted with them.

7. As per the reports submitted by the Deputy Commissioner, Una and the Deputy Commissioner, Roopnagar, there is disagreement regarding the land in question including its entries in the revenue record and also demarcation with proper boundaries. In the reports there is no mention as to what are the khasra numbers and what is the individual and total area of the khasras numbers comprised in the land in question. Entries in revenue record are stated to have been updated but copies of the revenue record have not been filed. The land in question is stated to have been demarcated but copy of the demarcation report has not been filed. On some part of the land encroachments are stated to have been

made but measurements of the area encroached upon and names of the encroachers have not been mentioned. No proceedings have been taken for removal of encroachments. The aspect of illegal construction of road in the land in question has not been looked into.

8. The Deputy Commissioner, Una and the Deputy Commissioner, Roopnagar are directed to submit detailed reports along-with copies of relevant records with respect to all the aspects mentioned above.

9. The Deputy Commissioner, Roopnagar is also directed to file separate status report regarding road alleged to have been illegally constructed in the land in question by/in connivance with Punjab PWD and to show cause as to why any road illegally constructed in the land in question without obtaining permission from the Central Government/Himachal Pradesh Forest Department be not ordered to be immediately closed.

10. Further the Deputy Commissioner, Una and the DFO, Una are directed to file report regarding the market value of trees illegally cut, the quantity of wood of illegally trees recovered by the Himachal Pradesh Forest Department, auction if any conducted for sale thereof and realization and utilization of sale proceeds of the same.

11. Reports as mentioned above be filed on or before 10.03.2024 by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

12. List for further consideration 12.03.2024.

13. In view of the facts and circumstance of the case, we also consider personal appearance of the Deputy Commissioner, Una and the Deputy Commissioner, Roopnagar (physically or through VC) on the next date of hearing to be essential for producing the relevant record and assisting this Tribunal in just and proper adjudication of the questions involved in the

case and they are accordingly directed to remain present before this Tribunal on that date.

14. A copy of this order be sent to the Deputy Commissioner, Una and the Deputy Commissioner, Roopnagar by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 04rd 2024
AG