

Item No.11

Court No. 2

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

Original Application No. 622/2023

Hemant Sharma

Versus

Applicant

Narendra Nath Gaur & Ors.

Respondent(s)

Date of hearing: 22.08.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondent: Mr. Rahul Khurana, Advocates for Respondents No. 9, 13 & 14
With Mr. Dinesh Kumar, RFO, Rai Purani, Mr. Prince Forest Guard and
Mr. Yogesh Kumar, Gram Secretary Garhi Kotha. Respondent No. 2 in
Person.
Mr. Saurabh Balwani, Advocate for CPCB (through VC)

ORDER

1. At the instance of Hemant Sharma, son of Basant Sharma, this Original Application (hereinafter referred to as '**O.A**') has been registered under Section 14 & 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act,2010**'). He has alleged that respondents 1 to 6 i.e. Narendra Nath Gaur, Mohan Lal Gaur, Siddharth Gaur, Ashish Gaur, Avichal Gaur and Monica Sharma are in possession of land parcel comprising 21 acres bearing Khasra Nos. 32/26/4,32/26/3, 32/9, 32/10, 32/11, 32/12, 32/19, 32/21, 32/22 and 32/24 at village Ghari Kotah, Tehsil Raipur Rani, Distt: Panchkula, Haryana. The said land is mentioned as "*bagh*" in *jamabandi* register. There were about 2000 green trees of different species and Respondent. 7 is the caretaker of the aforesaid land. Respondent 1 to 6 employed respondent 8 as Contractor

to cut the trees illegally without obtaining any permission from the concerned Authorities. Cutting of trees illegally will adversely affect the ecology and well-being of human and animals in the area and damage to environment hence requires indulgence of this Tribunal. The applicant has relied on notifications S.O.113/P.A2/1990/S.3/93 dated 17.11.1997; S.O. 121/P.A 2/1990/S.4/97 dated 28.11.1997; and order dated 01.07.2022 passed by this Tribunal in *O.A. No. 372 of 2022* titled *Green Earth Vs. Deputy Commissioner Kurukshetra and Ors.*

2. Tribunal after being *prima facie* satisfied regarding involvement of a substantial question relating to environment arising out of the implementation of the enactments mentioned in schedule 1 to NGT Act, 2010 issued notices to the respondents requiring them to file their responses.

3. Pursuant thereto, respondents 9, 13 and 14 have filed response dated 06.11.2023 stating that the land in question does not fall in the area specified under Section 4 of Punjab Land Preservation Act,1900. (hereinafter referred to as '**PLPA, 1900**') and therefore, before cutting of trees, no permission from the competent Forest Authority is required under the said Act read with the Government of Haryana's Notification dated 28.11.1997.

4. Respondent 2 has also filed its response stating that land bearing Khasra No. 32/26 Mauza Garhi, Kotah, Tehsil Raipur Rani, Distt: Panchkula, Haryana was divided in three equal parts after death of his father, Devidayal, in the name Narendra Nath Gaur, Basant Kumar Sharma and Mohan Lal Gaur i.e. respondent 2. After the death of Basant Kumar Sharma, piece of land which came in his share was transferred in the name of his legal heirs, i.e. Hemant Sharma and Divya Sumit

Khurana. Khasra No. 32/9, 32/10, 32/11, 32/19, 32/23 and 32/24 are not part of the property which is entered in the report as 'bagh'. For cutting of trees it is said that letter was submitted to Forest Authorities on 18.08.2023 seeking their permission, but no reply was given by them. Later a complaint was filed by Harender Sharma with regard to illegal cutting of trees. The same was enquired by Police Authorities of P.S Raipur Rani and its report dated 22.09.2023 it was mentioned that the land in question was not within the purview of PLPA Act, 1990 and no permission there under was required from Forest Authorities.

5. Rahul Khurana, Advocate appearing for respondents 9, 13 and 14 stated that since the land in dispute is beyond the purview of Section 4 of PLPA Act, 1900, read with Notification dated 28.11.1997, therefore, no permission from any Forest Authority under the said provisions was required. Since the land in question was within rural area, permission at the best could have been obtained from the concerned Gram Panchayat. He relied on Government's order dated 11.08.2023 which is Annexure 14/3 on page 113 and reads as under:-

"Development of Social Forestry is one of the duties of a Gram Panchayat as provided in Section 21 V of the Haryana Panchayati Raj Act, 1994. Gram Panchayats are required to promote and develop social forestry within their jurisdiction. To regulate the cutting of trees on private land in such areas, it has been decided by State Government that the Gram Panchayat may allow cutting of trees on private land only in the manner prescribed hereinafter.

The applicant may submit an application to the Gram Panchayat or Gram Sachiv for cutting of tree. The Sarpanch shall immediately get the preliminary inspection done. In case the proposal is not found to be justified, the same is to be rejected at this level itself and if it is found to be a fit case or if it falls within the categories of trees detailed below, it shall be considered and decided by the Gram Panchayat. The Gram Panchayat shall be competent to approve the cutting of such tree. The entire process shall be completed within 10 days

- a. *Diseased (name of disease and extent) Tree.*
- b. *Dead/ dry Tree,*
- c. *Road blockage and constitutes obstruction to traffic*
- d. *Leading and posing danger to life or property.*
- e. *Over mature (if estimated age is beyond tree rotation period).*
- f. *Critical root zone is covered with concrete (root asphyxiation)*
- g. *Hollowness in Tree*
- h. *Lacks mechanical strength*
- i. *Decay in the main trunk due to fungi.*
- j. *Termite infestation in tree,*
- k. *Silvicultural manure trees*
- l. *Uneven canopy weights*
- m. *Suitable for transplantation*
- n. *Threatens life or property or effects public safety*

In case the tree does not fall in many of the above mentioned categories, the Gram Panchayat will have to seek the opinion of the Biodiversity Management Committee (BMC) constituted at the Panchayat level on the ecological value of the tree before allowing its cutting. If required a joint inspection can be done by the Gram Panchayat and the BMC. On the basis of joint inspection report, the Gran Panchayat shall consider and may allow the request of the applicant for cutting of tree subject to the conditions that the person on whose land the tree stands, shall commit to plant atleast 3 trees of the indigenous species/variety and also protect and ensure their conservation for atleast 3 years. In case the request of the applicant is rejected by the Gram Panchayat, the applicant may approach the BDPO concerned

Permission for felling of trees within the jurisdiction of the Forest Department shall be given exclusively by the Forest Department only.”

6. Respondent 2 has stated that permission from tGram Panchayat was obtained on 01.01.2024 and relevant document is on record as Annexure R-5 page 157 to additional document submitted by respondent 2.

7. In view thereof, it is evident that apparently there is no violation of any statutory provision in the alleged cutting of trees. Thus, we find it difficult to hold that there is any illegal cutting of trees causing any damage to environment.

8. Hence in our view, no further order is required to be passed in the matter.

9. Original Application is accordingly disposed of.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 22, 2024
Original Application No. 622/2023
AB