

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.108/2023/EZ

In the matter of:

Arsad Nasar

S/o, Syed Abu Nasar
Chatihari, P.O. Pathreta,
PS and District – Sheikpura,
Bihar – 811105

.... Applicant(s)

Versus

1. The Dept. of Environment, Forests & Climate Change

Through the Principal Secretary,
Government of Bihar,
Secretariat, Patna,
Bihar – 800015

2. District Magistrate, Collectorate, Sheikpura,

Bihar – 811105

3. Superintendent of Police,

District – Sheikpura,
Bihar – 811105

4. Abu Tabrej

Son of Abu Anwar,
Village – Charihari,
Ward No.-14,
P.S. Sheikpura,
Bihar – 811105

5. Abu Sabar

Son of late Abu Muslim,
Village – Charihari,
Ward No.-14,
P.S. Sheikpura,
Bihar – 811105

6. Shivalak Mistri

Son of Ramlal Mistri,
Village – Chare,
P.S. Sheikpura,
Bihar – 811105

7. Abu Anwar

Son of late Abu Muslim,
Village – Charihari,
Ward No.-14,

P.S. Sheikpura,
Bihar – 811105

8. Divisional Forest Officer

District - Jamui,
Bihar – 811307

.... Respondent(s)

Date of hearing: 28.11.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Ms. Paushali Banerjee, Adv.

For Respondent(s) : Mr. Surendra Kumar, Adv. for R-1,2,3 & 8

ORDER

1. Ms. Paushali Banerjee, learned Counsel is present on behalf of the Applicant.
2. Affidavit dated 10.09.2024 has been filed by the Collector and District Magistrate, Sheikpura, Bihar; the same is taken on record.
3. Heard learned Counsel for the parties.
4. The allegation in the Original Application is that the Respondent Nos. 4 to 7 are illegally felling trees on the banks of river Tati on the side of the Main Road situated on the river bank between Charihari and Upgil in Sheikpura.
5. It is stated that the village of Sheikpura is surrounded by small rivers like Somi, Korhari, Tati and others. Felling of trees make the soil prone to erosion by natural agents such as wind and water.
6. In this regard, it is alleged by the Applicant that on 03.12.2022 the Forest Officer Sheikpura filed a complaint before the Court of Learned Chief Judicial Magistrate, Sheikpura being Case No.93C/2 of 2022 after seizure of a vehicle loaded with timber.
7. Similar complaints have been lodged on 29.05.2023 and 27.06.2023.

8. The Divisional Forest Officer, Jamui, Bihar has filed an affidavit stating therein that a tractor having Registration number BR 52G3238 was seized on 03.12.2022 at 8:35 AM in Sheikhpura at Chhatiyari Tola Path under Section 52(1) of the Indian Forest (Bihar Amendment) Act, 1989 as it was found carrying logs of Shisham, Guler and Babool without transit permit as transit of Shisham and Guler requires Transit Permit under Bihar Timber and other Forest Produce Transit Rules 1973.
9. It is stated that the seized tractor has been kept in the custody of the Forest Department. It is further stated that a Preliminary Offence Report being No. 5092 at Sheikhpura Range, Jamui Division was prepared and sent to the Chief Judicial Magistrate, Sheikhpura, along with Seizure Memo by the Forest Range Officer, Sheikhpura on 03.12.2022.
10. It is also stated that the owner of the vehicle was informed about the Seizure of the vehicle under Section 52(1) of the Indian Forest (Bihar Amendment) Act, 1989 vide Memo dated 12.02.2022.
11. It is further stated that the land in question is not a forest land and the Range Officer of Forests wrote a letter dated 23.12.2022 informing the Station House Officer, Sheikhpura to enquire and take steps as to whether the land is Gair – Mazrua and accordingly lodge a case against the perpetrators under relevant sections of the Indian Penal Code for causing damage to public property and, for illegal felling of trees from the Government land. It is also stated that a Detailed Prosecution Report of the case has been sent by the Range Forest Officer, Sheikhpura to the Divisional Forest Officer and forwarded to the Chief Judicial Magistrate, Sheikhpura.

12. The Superintendent of Police, Sheikhpura has filed an affidavit stating that vide letter dated 12.07.2023 addressed to the S.H.O. (i.e. Station House Officer), Sheikhpura a detailed report had been sought for and S.H.O. was directed and instructed to protect the trees at the site in question and a report dated 15.07.2023 was submitted by the S.H.O., Sheikhpura stating that the Forest Department personnel have been maintaining and taking proper care of the trees and a case has also been filed in the Court of the Chief Judicial Magistrate, Sheikhpura being Case No. 93/2022.
13. The Respondent Nos.4, 5 and 7 have however filed affidavit stating that the allegation of trees being destroyed or uprooted were completely false as per report filed with the Sheikhpura Police Station.
14. The District Magistrate, Collectorate, Sheikhpura, Bihar has filed three affidavits on 12.02.2024, 20.07.2024 and 10.09.2024 respectively confirming the lodging of Case No.93C/2/22 before the Chief Judicial Magistrate, Sheikhpura and a report was also collected from the Respondent No.8, Divisional Forest Officer, District – Jamui, Bihar according to which the area in question does not belong to the Forest Department rather it is Aam Gair Mazaura and the inquiry with regard to felling of trees is going on through Circle Officer, Sheikhpura.
15. It is also stated that as per report submitted by the Circle Officer, Sheikhpura dated 10.11.2023, the land in question is not situated in Village-Charihari but it is situated in Mouza Chande Revenue Thana No. 180; land from where the trees have been cut and damaged in Mouza Chande Revenue Thana No. 180 under Khata No. 95 Khesra No. 3142 and the nature of the land is Bhith Raiyati.

The report has been filed as Annexure-R1 to the affidavit of the Collector.

16. In view of the representation of the Collectorate, Sheikhpura dated 10.12.2023 we find that the land in question is not a Forest Land rather it is Bhit-Raiyati land situated in Mouza Chande Revenue Thana No. 180 under Khata No. 95 Khesra No. 3142.
17. We also find that with regard to the illegal felling of trees, appropriate complaint case has been made being Case No. 93C/2 of 2022 which is pending before the Chief Judicial Magistrate, Sheikhpura.
18. The affidavits of the Respondents also show that the land in question is not Forest Land.
19. Ms. Paushali Banerjee, learned Counsel next placed before us the notification dated 15.08.1997 issued by the Government of Bihar, Forest and Environment Department which mentions that the land on both sides of roads having trees or not have been notified as protected forest under section 29 of the Indian Forest Act 1927 and therefore in exercise of powers conferred by section 30 of the Indian Forest Act, 1927 all trees in the above protected forest shall be treated to be reserved from the date of the notification i.e., 15.08.1997.
20. So far as the present case is concerned we find that case No. 93C/2 of 2022 is already pending before the Chief Judicial Magistrate, Sheikhpura and seizure of vehicle loaded with timber has also been made by the Forest Department, Sheikhpura and therefore it cannot be said that no action is being taken by the State Respondents.

21. We, therefore, dispose of this Original Application with a direction to the State Respondents to ensure that Notification dated 15.08.1997 of Department of Forest and Environment, Government of Bihar is observed in strict letter and spirit and action is taken against any illegal felling of trees.
22. I.As., if any, stand disposed of accordingly.
23. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

November 28, 2024,
Original Application No.108/2023/EZ
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