

Item No.01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

(By Virtual Mode)

Original Application No.103/2022(CZ)
(I.A.No.18/2023) (I.A.No.66/2023)

Prabhat Mohan Pandey

Applicant(s)

Versus

State of Madhya Pradesh & Ors.

Respondent(s)

Date of hearing: 10.08.2023

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

For Applicant(s) : Mr. Rohit Sharma, Advocate

For Respondent(s): Mr. Sachin Kumar Verma, Advocate for R -1 to 3
Mr. Shantanu Saxena, Mr. Om Shanker
Shrivastava and Mr. Dharamvir Sharma,
Advocates for R -4 to 6

ORDER

1. This Original Application under Section 14,15 and 16 under National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') was filed alleging that there is a public drain (public drain) over which respondents 4 to 7 have encroached illegally and therefore the said encroachmentS should be directed to be removed.

2. Tribunal noticed the grievance in its order dated 06.01.2023 and issued notices to respondents to file their response.

3. Respondent 3 i.e. Bhopal Municipal Corporation (hereinafter referred to as '**BMC**') has filed reply dated 29.03.2023 stating that the construction permissions were granted on the land Khasra nos. 10, 11, 12/2, 13/2/2, 125/13 total area 9.37 acres and Khasra no. 7/7 and 8 area 0.101 hectares and no permission has been granted for raising any

construction to respondent 4 to 7 on Khasra no. 9. It is further said that encroachment found on public nallah is required to be removed by District administration particularly Revenue Department in view of Section 248 of the Land Revenue Code 1959.

4. We are informed that the matter of demarcation and area of encroachment if any was under consideration before Tehsildar, Tehsil Huzur, District Bhopal and challenging the said proceedings, respondents 4, 5 and 6 had approached Madhya Pradesh High Court at Jabalpur in Writ Petition no. 2479 of 2023 in which an interim order has been passed on 08.02.2023 staying entire proceedings in Case no. 0025/B-121/2022-23 pending before Tehsildar.

5. Learned Counsel of respondents stated that since the proceedings before Tehsildar have been stayed, hence demarcation of alleged encroachments cannot proceed further and no further proceedings therefore is permissible or possible at this stage till the matter is pending before High Court.

6. In that view of the matter we find that no useful purpose would be served by keeping the matter pending before this Tribunal when issue is already subjudice in the High Court of Madhya Pradesh at Jabalpur.

7. We accordingly dispose of this OA with direction that respondents 1,2 and 3 shall take further action in the matter in the light of decision of High Court in the above mentioned Writ Petition and comply order of High Court in words and spirit, expeditiously, whenever the matter is decided.

8. We also make it clear that if after the decision of High Court, any cause of action survive or new cause of action arise which is within the domain/ambit of this Tribunal, it will be open to any of the parties to avail remedy available in law, in accordance with the law.

9. OA with the above direction/observations is disposed of.

10. In view of the order of date passed in OA the I.A. No. 18 of 2023 and I.A. No. 66 of 2023 also stands disposed of.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 10, 2023
Original Application No.103/2022(CZ)
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