

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL No. 4014 OF 2020

TARANJEET KAUR SALUJA & ORS.

... APPELLANTS

Versus

VINAY RUTHIA & ORS.

... RESPONDENTS

O R D E R

1. Respondent No.1 filed O.A.No. 16/2019 (CZ) before the National Green Tribunal, Central Zonal Bench, Bhopal (for short, 'the Tribunal'), *inter alia*, seeking direction for demarcation and earmarking of the buffer zone of river Seevan; for removal of encroachments from the catchment area of the river; for implementation of the master plan and carrying out extensive plantation after removing the encroachments; for imposing a heavy penalty under the principle of 'polluter pays' on the encroachers for causing loss to the environment and obstructing the free flow of river; for restitution of the environmental degradation caused by the encroachers; and for preparation of a Detailed Project Report chalking out steps towards protection of river Seevan and further implementation of such Project Report.

2. The Tribunal (hearing the matter through its Principal Bench at New Delhi due to COVID-19 Pandemic), vide the impugned order dated 09.09.2020, has issued comprehensive directions, which

read as follows:

"53. 1. The application is allowed and respondents are directed to demarcate the area in question and earmark the buffer zone of river Seevan within the territory of the district.

2. The Respondent nos. 1 and 2 are directed to remove the encroachment as shown by the Collector in the report on the basis of measurement and demarcation of the land, over khasra nos. 474 and 482 which are the tributaries of river Seevan.

3. The measurement and demarcation report submitted by the Collector on the basis of report of Superintendent of Land Records is confirmed and the authorities may proceed in accordance with the law.

4. The respondents are directed to implement the Master Plan and carry out extensive plantation within 30 mtrs. from the area after removal of existing encroachment within a time frame and this exercise be done throughout the territory of the District.

5. The Collector is directed to constitute a Committee to monitor and observe any encroachment over the public land either on river, ponds or forest land and in case it is found that there is encroachment immediate necessary action with removal of encroachment and legal action may be initiated.

6. On the bank of river bodies which has already been decided by the Municipal Corporation at around 30 mtrs. buffer zone, no construction zone or no development zone be initiated and in this region there should a deep forestation to demarcate the land so that there should not be any future encroachment. The buffer zone, no construction zone and no development zone as decided by the Municipal Corporation in the Master Plan as mentioned above will be subject to decision of Principal Bench of this Tribunal (since the matter is pending) which should be applicable PAN India."

3. The appellants and several other persons have been affected, especially by direction No.2, reproduced above, which pertains to removal of encroachments as were shown in the reports submitted by the Collector before the Tribunal.

4. It is pertinent to mention that the appellants or other alleged encroachers were not made party respondents before the Tribunal, and none of them had any opportunity either to submit objections against the report of the Collector or to justify their possession over the subject land, especially comprising khasra nos. 474 and 482. In fact, the petitioners had applied for their impleadment, but their applications were never decided except for being disposed of along with the impugned judgment.

5. When the instant appeal came up for hearing on 08.12.2020, this Court stayed the operation of the impugned order of the Tribunal. Thereafter, on 15.12.2022, the following order was passed:

"The principal bone of contention of the appellants is the legality of direction No.2 of paragraph 53 of the impugned order passed by the National Green Tribunal (NGT) in Original Application No.16/2019 (CZ) in I.A. No.93/2020 dated 09.09.2020. Direction No.2 read as follows:

"2. The Respondent Nos.1 and 2 are directed to remove the encroachment as shown by the Collector in the report on the basis of measurement and demarcation of the land, over khasra Nos.474 and 482 which are the tributaries of river Seevan."

Under the said direction, respondent Nos. 1 and 2 have been directed to remove the encroachment as shown by the Collector in the report on the basis of measurement and demarcation of the land, over Khasra No.474 and 482 which are stated to tributaries of river Seevan. The appellants were not a party to the proceedings before the NGT. The appellants also have a case that the appellants were not involved when the measurement was carried out. The case of the respondent-State appears to be that the location of the appellants' property is in river bed covered by the khasra Nos.474 and 482. We do find merit in the statement made by the learned counsel for the respondent-State that actually the appellants were the intervenors before the Tribunal but then there again it is pointed out by the appellants that this does not detract from their

contentions that measurement was carried out in their absence.

We would think that the interest of justice would require in view of the fact that an order of stay has been granted by this Court that a further measurement must be carried out with notice to the appellants also .

We direct that the shall carry out District Collector survey/measurement of Sehore, and Madhya ascertain the correct facts with the assistance of such number of other Officers as may be required. The appellants will be present at the site on 10<sup>th</sup> January, 2023. The Officers will carry out the survey/measurement as directed from 11:00 a.m. onwards.

It will be also open to the Respondent No.1 also to be present at the time of survey/measurement as we have ordered.

This order is being passed without prejudice the contentions of the parties.

The case of the appellants is that the properties which they own are located in Khasra Nos.481, 486/2, 490/1/3 and 490/103 and 490/1/4/8 situated Halka No.37, Near Cant, Sehore, Ward No.4, Pultan area, District Sehore, Madhya Pradesh into that of the river Seevan which is situated on Khasra Nos.474 & 482.

We also in the same breath must notice that the impugned order limits the directions in paragraph 53 to Khasra Nos. 474, 482 and 484.

The Report shall be made available to the Court by the next date of hearing.

List the case for further directions on 03.02.2023."

6. In deference to the above-stated order, the Sub-Divisional Officer (Revenue), Sehore, Madhya Pradesh has filed a compliance affidavit along with a demarcation report. As per the said report, there are in all 44 encroachers, including appellant No.2. Appellant Nos.1 and 3 are not included in this list.

7. Since the Tribunal has passed the impugned order without affording an opportunity of being heard to the appellants and other alleged encroachers, we are satisfied that direction Nos. 2 and 3, issued by the Tribunal, cannot sustain, and the same are, accordingly, set aside. However, the other directions issued by the Tribunal regarding restoration of the catchment area/buffer zone as

well as identification and removal of encroachments are required to be implemented by the parties. While upholding this part of the Tribunal's order, it is directed that the Collector, Sehore shall give an opportunity of being heard to appellant No.2 and other alleged encroachers and, thereafter, pass appropriate orders in accordance with law.

8. It is clarified that we have not expressed any opinion in respect of the allegations made against the alleged encroachers or the plea that may be taken on their behalf. All these issues shall be decided by the Collector, Sehore within a period of four months.

9. The appeal stands allowed to the extent indicated above.

10. As a result, the pending interlocutory application also stands disposed of.

.....J.  
(SURYA KANT)

.....J.  
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;  
JANUARY 31, 2025.

ITEM NO.27

COURT NO.3

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s).4014/2020

TARANJEET KAUR SALUJA &amp; ORS.

Appellant(s)

VERSUS

VINAY RUTHIA &amp; ORS.

Respondent(s)

(IA No.127095/2020-EX-PARTE STAY)

Date : 31-01-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Appellant(s) Mr. Vikramaditya Singh, AOR  
Mr. Sajal Singhai, Adv.  
Ms. Yashika Gupta, Adv.For Respondent(s) Mr. Pulkit Agarwal, AOR  
Mr. Sudhanshu Kaushesh, Adv.  
Mr. Abhinav Gupta, Adv.  
Mr. Anubhav Lamba, Adv.  
Mr. Alok Abhinav, Adv.Mr. Abhimanyu Singh, A.A.G.  
Mr. Sarad Kumar Singhanian, AOR  
Mr. Deepak Raj, Adv.  
Mr. Anshuman Shrivastava, Adv.UPON hearing the counsel the Court made the following  
O R D E RThe appeal stands allowed to the extent indicated in the  
signed order.As a result, the pending interlocutory application also  
stands disposed of.(SATISH KUMAR YADAV)  
ADDITIONAL REGISTRAR(PREETHI T.C.)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)