

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 9828 OF 2018

ABBAS ALI (DEAD) THR. LRS. & ORS. ...Appellant(s)

VERSUS

KIRTI VARDHAN SINGH & ORS. ...Respondent(s)

WITH

CIVIL APPEAL NO(S). 8511 OF 2018

CIVIL APPEAL NO(S). 9166 OF 2018

CIVIL APPEAL NO(S). 9169 OF 2018

CIVIL APPEAL NO(S). 9107-9108 OF 2018

CIVIL APPEAL NO(S). 1781 OF 2019

O R D E R

1. This common order shall dispose of all the aforementioned appeals since they arise from the same impugned order of the National Green Tribunal¹, though one of the orders has already been subject to a review application before the Tribunal which also came to be dismissed.

1 Hereinafter referred to as the 'Tribunal'.

2. The short facts necessary for disposal of the present appeals are that the Tribunal took note of certain letter and registered it as an Original Application. Thereafter, the Tribunal constituted a Joint Committee which submitted its report on 07.09.2017. Taking note of the said recommendations the Tribunal by order impugned before us finally disposed of the Original Application and directed as under:-

"1. The proceedings were initiated before this Tribunal on the basis of a letter received by the Registry alleging illegal sand mining in District Gonda in the State of Uttar Pradesh. An inspection was carried out and in terms of the report dated 12.04.2016 it was found that such illegal mining was in fact taking place. The extent of mining was also point out. After considering the material on record, the Application was disposed of directing ban on illegal mining, demarcation of the forest area and directing a study by a Committee constituted by the Tribunal to ascertain the extent of damage caused to the environment and other incidental issues.

2. Accordingly, report dated 07.09.2017 has been submitted which is a subject matter of consideration in the present Application. In the said report, it has been inter-alia found that the illegal mining has resulted in loss of Royalty of Rs. 93,04,45,776/- and quantum of money required for restoration is Rs. 119,41,14,500/-. We do not see any reason not to accept the said report as no objection has been filed. Accordingly, the State Uttar Pradesh may take steps in accordance with law, for recovering the loss caused, expeditiously and as far as possible within six months.

3. The amount assessed as loss to the environment should be separately earmarked for restoration of the environment.

4. A report of the action taken and details of the amount spent should be furnished to this Tribunal on or before the last week of April, 2019.

With the above directions, Original Application No. 429 of 2017 stands disposed of.”

3. The common submission of all the counsels is that the appellants neither had the opportunity to contest the findings of the Joint Committee nor represent themselves before the Tribunal for the simple reason that they were not parties to the proceedings.

4. Taking note of the similar circumstances, where the Tribunal was passing ex-parte orders, this Court set aside the order and remanded the Original Application back to the Tribunal for disposal after giving due opportunity to all contesting parties. In this context, we may refer to the decision in *Veena Gupta and Anr. v. Central Pollution Control Board & Ors.*², the relevant portion of the judgment reads as follows:-

“3. It is evident from the above that the Tribunal itself has noted that notices were not issued to the Project Proponents. The Tribunal, in fact, considers it unnecessary to hear the Project Proponent to verify the facts in issue. The Tribunal thought it appropriate to adopt this method in view of a Joint Inspection Report that had been submitted. The persons who were prejudiced by the order of the Tribunal naturally filed Review Petitions before the Tribunal. Appellant No. 2 is one amongst them. The Review Petition was taken up and dismissed by the Tribunal on 26.11.2021.

4. The National Green Tribunal’s recurrent engagement in unilateral decision making, provisioning ex post facto review hearing and routinely dismissing it has regrettably become a prevailing norm. In its zealous quest for justice, the Tribunal must tread carefully to

2 2024 INSC 89 -Civil Appeal Nos. 1865-1866 of 2022

avoid the oversight of propriety. The practice of ex parte orders and the imposition of damages amounting to crores of rupees, have proven to be a counterproductive force in the broader mission of environmental safeguarding.

5. Significantly, these orders have consistently faced stays from this Court, resulting in the unraveling of the commendable efforts put forth by the learned Members, lawyers and other stakeholders³. It is imperative for the Tribunal to infuse a renewed sense of procedural integrity, ensuring that its actions resonate with a harmonious balance between justice and due process. Only then can it reclaim its standing as a beacon of environmental protection, where well-intentioned endeavors are not simply washed away.

6. It appears that the appellants did not have a full opportunity to contest the matter and place all their defenses before the Tribunal. They filed this appeal and by order dated 04.03.2022, this Court stayed the judgment and order passed by the Tribunal. This was inevitable. Two years have passed by and the stay is still operating. We have no other alternative except to set aside the orders dated 31.08.2021 and 26.11.2021 and remand the matter back to the Tribunal. The Tribunal issue notices to all the necessary parties, hear them in detail, and pass appropriate orders. Needless to say that the Tribunal shall hear the case, uninfluenced by the observations and conclusions drawn in the orders dated 31.08.2021 and 26.11.2021.”

5. We seek to adopt the same course as in the above referred judgment.

6. In view of the above, we allow the appeals and set aside the judgment and order passed by the Tribunal in Original Application No. 429 of 2017 (earlier O.A. No. 124 of 2016) dated 24.07.2018 & Review Application No. 27 of 2018 and remand the matter back to the Tribunal by restoring the said

³ *Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey & Ors.* (2023) 8 SCC 35.

³⁵ This Court has already noticed the practice of the Tribunal in not providing an opportunity of hearing to the affected party and consequently set aside its orders and remanded the matter to the Tribunal for reconsideration after following principles of natural justice.

Original Application No. 429 of 2017 to its original number.

7. The Tribunal shall issue notice to all the stakeholders and hear them in detail and pass appropriate orders. We make it clear that we have not expressed any opinion on the merits of the matter and direct the Tribunal to dispose of Original Application as expeditiously as possible. Needless to say that the Tribunal shall hear the case uninfluenced by any observations and conclusions drawn in the order dated 24.07.2018.

8. There shall be no order as to costs.

9. Pending application(s), if any, shall stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[MANOJ MISRA]

NEW DELHI;
DECEMBER 06, 2024.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 9828/2018

ABBAS ALI (DEAD) THR. LRS. & ORS.

Appellant(s)

VERSUS

KIRTI VARDHAN SINGH & ORS.

Respondent(s)

IA No. 131138/2018 - EX-PARTE STAY

IA No. 131139/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 143771/2018 - EXEMPTION FROM FILING O.T.

IA No. 131143/2018 - EXEMPTION FROM FILING O.T.

IA No. 131145/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 131141/2018 - PERMISSION TO FILE LENGTHY LIST OF DATES)

WITH

C.A. No. 8511/2018 (XVII)

IA No. 112025/2018 - EX-PARTE STAY

IA No. 112026/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 125715/2018 - EXEMPTION FROM FILING O.T.

IA No. 113841/2018 - EXEMPTION FROM FILING O.T.

IA No. 112029/2018 - EXEMPTION FROM FILING O.T.

IA No. 113840/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)C.A. No. 9166/2018 (XVII)

(FOR EX-PARTE STAY ON IA 117783/2018

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
117784/2018

FOR EXEMPTION FROM FILING O.T. ON IA 117785/2018

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS ON IA 120996/2018

FOR EXEMPTION FROM FILING O.T. ON IA 120997/2018

FOR EXEMPTION FROM FILING O.T. ON IA 130374/2018

IA No. 117783/2018 - EX-PARTE STAY

IA No. 117784/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 130374/2018 - EXEMPTION FROM FILING O.T.

IA No. 120997/2018 - EXEMPTION FROM FILING O.T.

IA No. 117785/2018 - EXEMPTION FROM FILING O.T.

IA No. 120996/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)C.A. No. 9169/2018 (XVII)

(FOR EX-PARTE STAY ON IA 118704/2018

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
118705/2018
FOR EXEMPTION FROM FILING O.T. ON IA 118706/2018
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS ON IA 120991/2018

FOR ON IA 120991/2018
FOR EXEMPTION FROM FILING O.T. ON IA 120992/2018
FOR EXEMPTION FROM FILING O.T. ON IA 130367/2018
IA No. 118704/2018 - EX-PARTE STAY
IA No. 118705/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 130367/2018 - EXEMPTION FROM FILING O.T.
IA No. 120992/2018 - EXEMPTION FROM FILING O.T.
IA No. 118706/2018 - EXEMPTION FROM FILING O.T.
IA No. 120991/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 9107-9108/2018 (XVII)
(FOR EX-PARTE STAY ON IA 120778/2018
FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
120779/2018
FOR EXEMPTION FROM FILING O.T. ON IA 120781/2018
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS ON IA 120783/2018

FOR ON IA 120783/2018
FOR PERMISSION TO FILE LENGTHY LIST OF DATES ON IA 120784/2018
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS ON IA 122704/2018

FOR EXEMPTION FROM FILING O.T. ON IA 122706/2018
FOR EXEMPTION FROM FILING O.T. ON IA 130381/2018
IA No. 120778/2018 - EX-PARTE STAY
IA No. 120779/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 130381/2018 - EXEMPTION FROM FILING O.T.
IA No. 122706/2018 - EXEMPTION FROM FILING O.T.
IA No. 120781/2018 - EXEMPTION FROM FILING O.T.
IA No. 122704/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 120783/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 120784/2018 - PERMISSION TO FILE LENGTHY LIST OF DATES)

C.A. No. 1781/2019 (XVII)
IA No. 25733/2019 - EX-PARTE STAY
IA No. 25734/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 25737/2019 - EXEMPTION FROM FILING O.T.
IA No. 25742/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 25726/2019 - PERMISSION TO FILE APPEAL
IA No. 25735/2019 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 06-12-2024 These matters were called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE MANOJ MISRA**

**For Appellant(s) Mr. Vishwajit Singh, Adv.
Mr. Vishwajit Singh, Sr. Adv.
Mr. Utkarsh Sharma, AOR
Mr. Sharad Chauhan, Adv.
Mr. Yagyawalkya Singh, Adv.**

For Respondent(s) Mr. Ardhendumauli Kumar Prasad, AOR

**Ms. Aishwarya Bhati, A.S.G.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Kamendra Mishra, AOR**

**Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Suhashini Sen, Adv.
Mr. Digvijay Dam, Adv.
Mr. Sarthak Karol, Adv.
Mr. Shivank Pratap Singh, Adv.**

**UPON hearing the counsel the Court made the following
O R D E R**

- 1. The Civil Appeals are allowed in terms of the Signed Order.**
- 2. Pending application(s), if any, shall stand disposed of.**

**(KAPIL TANDON)
COURT MASTER (SH)**

**(NIDHI WASON)
COURT MASTER (NSH)**

(Signed Order is placed on the file)