

ITEM NO.12

COURT NO.2

SECTION PIL-W

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 S

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

INTERLOCUTORY APPLICATION FOR 16.01.2025 (THROUGH SUPPLEMENTARY LIST) "ONLY" [1] IN RE : "CONSTRUCTION OF MULTI STOREYED BUILDINGS IN FOREST LAND MAHARASHTRA" [i] I. A. No. 2079 OF 2007 [Application For Impleadment And Directions] WITH [ii] I.A Nos. 2301-2302 OF 2008 [Applications For Impleadment And Directions] AND [iii] I.A. Nos. 3044-3045 OF 2011 [Applications For Impleadment And Directions] AND [iv] I.A. Nos. 2771-2772 OF 2009 [Applications For Impleadment And Directions] WITH I.A. NOS. 172553 AND 172555 OF 2024 (Application for Additional and Documents and Exemption from filing O.T. in I.A. Nos. 2771-2772 of 2009) WITH I.A. NO. 177996 OF 2024 (Application for Exemption from filing O.T. in I.A. Nos. 2771-2772 of 2009) AND [v] I.A.Nos. 111725 AND 154041 OF 2018 [Applications For Substitution Of Applicant, I.E. Smt. Housabai Haribhau Bhairat And Condonation Of Delay In Filing Application For Substitution In I.A. Nos. 2771-2772/2009] WITH [vi] I.A. NO. 254946 OF 2023 (Application For Directions In I.A. No. 2301-2302/2007 Filed By M/S. Mitter & Mitter Co., Advocate) WITH I.A. NO. 39711 OF 2024 (Application for permission to file Additional Documents in I.A. No. 254946/2023 filed Mr. Aaditya A. Pande, Advocate) AND WRIT PETITION(C)NO. 301 OF 2008 WITH I.A. NO. 9108 OF 2024 (Application for Intervention) AND [2] I. A. Nos. 118236 AND 129623 OF 2020 [APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS] IN RE : M/O AGRICULTURE AND FARMERS WELFARE WITH I.A. No. 179389 OF 2018 [APPLICATION FOR MODIFICATION OF COURT'S ORDER DATED 07.05.2002 IN I. A. NO. 502] AND I.A. No. 69399 OF 2021 [APPLICATION FOR PERMISSION TO FILE ADDITIONAL AFFIDAVIT] AND I.A. No. 144539 OF 2021 [APPLICATION FOR INTERVENTION IN I.A. NO. 179389/2018] AND I.A. No. 13413 OF 2023 [CEC REPORT NO. 2/2023 - NOTE FILED BY MEMBER SECRETARY, CEC IN I.A. NO. 179389/2018] AND I.A. No. 217138 OF 2024 [APPLICATION SEEKING EXTENSION OF TIME ON BEHALF OF MOEF & CC IN I.A. NO. 179389/2018] IN RE : U.T. OF ANDAMAN AND NICOBAR ADMINISTRATION AND [3] CONTEMPT PETITION (C) DIARY NO. 39857 OF 2024 IN RE : K. MRUTYUNJAYA RAO AND [4] CONTEMPT PETITION (C) DIARY NO. 38053 OF 2024 WITH I.A. NO. 32074 OF 2024 [Applications for Exemption from filing Residential Address] IN RE : ROHIT KUMAR CHAURASIA AND [5] I.A. NO. 41723 OF 2022 (DISPOSED OF ON 18.12.2024) [APPLICATION FOR DIRECTIONS] IN WRIT PETITION (CIVIL) NO. 202 OF 1995 (Under Article 32 of the Constitution of India) IN RE : AMAN SINGH, RAJASTHAN IN RE : ORANS IN RAJASTHAN TO BE LISTED ONLY FOR RECEIVING THE COMPLIANCE REPORT

AND [6] I.A. NO. 20650 OF 2023 (CEC REPORT NO. 3/2023 - REPORT OF CEC IN APPLN. NO. 1558/2021 FILED BEFORE IT BY GAURAV KUMAR BANSAL) WITH I.A. NO. 75033 OF 2023 (Application For Exemption From Filing O.T.) AND I.A. NO. 199355 OF 2024 (CEC REPORT NO. 16/2024 - INTERIM REPORT OF THE CEC ON APPLN. NO. 1578/2024 FILED BY SHRI ABHIJAY NEGI IN I.A. NO. 20650/2023) IN RE : GAURAV KUMAR BANSAL AND [7] I. A. NOS. 79569 AND 79576 OF 2019 [Applications For Intervention And Directions] WITH I. A. NOS. 159670 AND 159677 OF 2019 [Application For Exemption From Filing Official Translation] WITH I. A. D. NOS. 14261 AND 14262 OF 2021 [Applications For Urgent Listing Of I.A. Nos. 79569 And 79576/2019 And Exemption From Filing Duly Attested Affidavit] AND I. A. NOS. 40599 AND 40624 OF 2023 [Applications For Intervention And Modification Of Court's Order Dated 12.05.2022] AND I. A. NO. 220675 OF 2023 [Application For Direction In I.A. No. 79576/2019] IN RE : SHRAMIK RICKSHAW CHALAK-MALAK SEVASANSTHA AND [8] I. A. NO. 268213 OF 2024 [Application for Impleadment] AND I. A. NO. 268214 OF 2024 [Application for Directions] IN RE : ALL INDIA KISAN SABHA & ANR. IN WRIT PETITION (CIVIL) NO. 202 OF 1995 (Under Article 32 of the Constitution of India) "ONLY" ARE LISTED IN W.P.(C) No. 202 OF 1995 "ONLY" ON 16.01.2025 (THROUGH SUPPLEMENTARY LIST) AND THE NAMES OF "ONLY" THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN AGAINST THESE I.As. MR. HARISH N. SALVE, SR. ADV. [A.C.], MR. A.D.N. RAO, SR. ADVOCATE [A.C.], MS. APARAJITA SINGH, SR. ADVOCATE [A.C.], MR. SIDDHARTHA CHOWDHURY, ADVOCATE [A.C.] MR. K. PARAMESHWAR, SR. ADVOCATE [A.C.] MR. G.S. MAKKER, MR. S.N. TERDAL FOR S. NO. [1] MR. K. PARAMESHWAR (A.C.), MR. B.K. PAL, MR. NISHANT R. KATNESHWARKAR, M/S. MITTER & MITTER CO., MS. RANJEETA ROHTAGI, MR. C.S. ASHRI, MR. AADITYA ANIRUDDHA PANDE FOR S.NO. [2] MR. K. PARAMESHWAR (A.C.), MR. RAJ BAHADUR YADAV, MS. MRINAL ELKER MAZUMDAR, MR. RAJAT ARORA, MR. P.K. MANOHAR, MR. G.S. MAKKER FOR S.NO. [3] MR. K. PARAMESHWAR (A.C.), MR. MUKESH KUMAR FOR S.NO. [4] MR. K. PARAMESHWAR (A.C.), MR. SHASHANK SINGH FOR S. NO. [5] MR. K. PARAMESHWAR (A.C.), MR. SIDDHARTHA JHA, MR. SANDEEP KUMAR JHA (FOR STATE OF RAJASTHAN), MS. NIDHI JASWAL FOR S. NO. [6] MR. K. PARAMESHWAR (A.C.), DR. ABHISHEK ATREY (FOR STATE OF UTTARAKHAND), MR. G.S. MAKKER, MR. M.K. MARORIA (FOR C.B.I.) FOR S.NO. [7] MR. K. PARAMESHWAR(A.C.), MS. MISHA ROHATGI MOHTA, M/S. KARANJAWALA & CO., MR. KRISHNA BALLABH THAKUR, MR. T.R.B. SIVAKUMAR, MR. AADITYA A . PANDE (STATE OF MAHARASHTRA) FOR S.NO. [8] MR. K. PARAMESHWAR (A.C.), MR. RAJEEV SINGH

WITH

W.P.(C) No. 301/2008 (PIL-W)

(IA No. 2/2008 - EXEMPTION FROM FILING O.T., IA No. 9108/2024 - INTERVENTION APPLICATION

Diary No(s). 38053/2023 (PIL-W)

(FOR APPLICATION FOR EXEMPTION FROM FILING THE RESIDENTIAL ADDRESS OF RESPONDENT/CONTEMNOR WITH AFFIDAVIT ON IA 32074/2024, IA No. 32074/2024 - APPLICATION FOR EXEMPTION FROM FILING THE RESIDENTIAL ADDRESS OF RESPONDENT/CONTEMNOR WITH AFFIDAVIT

Diary No(s). 39857/2024 (PIL-W)

Date : 16-01-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

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

[1] CONTEMPT PETITION (C)@ DIARY NO.38053/2024

1. The present petition has been filed alleging contempt of the order of this Court dated 05.10.2015. It is the contention of the petitioner(s) that in pursuance to the order passed by this Court, Respondents No.1 and 2 were bound to consider the application made by the applicant(s) for the grant of licence to run saw mill. It is submitted that in spite of such an application being made, the same is not decided.
2. The order of this Court dated 05.10.2015 provides a mechanism as to how the application for grant of licence to the wood based industries would be considered by the State Level Committee. The said order also provides as to what remedy will be available to a person who is aggrieved by the order of the State Level Committee.
3. In that view of the matter, we are not inclined to entertain this petition. The same is rejected relegating the applicant(s) to take recourse to the remedy available to them by law.
4. The contempt petition is accordingly dispose of.
5. Pending application(s), if any, shall stand disposed of.

[2] I.A. NO.41723/2022

1. In the present matter this Court had directed the Ministry of Environment, Forest and Climate Change (MoEF&CC), Government of India and the Forest Department to constitute a Committee for Oran identification in the State of Rajasthan.

2. Accordingly, the State of Rajasthan has recommended constitution of the Expert Committee, as under:-

“i. Chairman - Hon’ble Justice (Retd.) Dalip Singh, Former Judge of the High Court of Rajasthan.

ii. Domain Expert - Shri M.R. Baloch, IFS (Retd.), PCCF & Former Director, AFRI, Jodhpur

iii. Chief Conservator of Forests, (Forest Dettlement & Work Planning), Jaipur

iv. Settlement Commissioner, Land Settlement Department, Rajasthan.”

3. The said proposal is also recommended to the MoEF&CC on 08.01.2024.

4. It will be appropriate that the MoEF&CC addresses the issue at the earliest and takes a final decision with regard to the constitution of the Expert Committee.

5. We direct MoEF&CC to take a decision prior to 19.03.2025 and report compliance to this Court.

6. List on 19,.03.2025.

[3] I.A. NOS.20650/23, 75033/23 & 199355/24

1. Mr. Abhishek Attrey, learned counsel appearing for the State of Uttarakhand states that the departmental proceedings against the delinquent officers, which were involved in the illicit felling of trees and illegal construction of structures in Corbett Tiger Reserve, has substantially progressed.
2. He seeks some time to file a detailed affidavit.
3. Time as prayed for is granted. The said detailed affidavit be filed on or before 17.03.2025. In the affidavit the State shall also mention about the stage of the proceedings against those delinquent officers.
4. List on 19.03.2025.
5. In the meantime, the CBI shall also file a report of the further investigation carried out by it.

[4] CONTEMPT PETITION (C) DIARY NO. 39857 OF 2024

1. Vide order dated 10.04.2006, this Court, in the present proceedings, had passed following order:

"For the above reasons, we direct the State Government and its officers to implement the directions of CEC vide para 54 of its report dated 20th March, 2006. We make it clear that the use of transportation of inputs for pisciculture shall be stopped immediately. We, further clarify that the demolition of all fish tanks in a time-bound manner shall commence with effect from April 20, 2006, as indicated vide para 54(ii). Accordingly, the interim order granted by this Court in I.A. No. 1486-1487 in WP(C) No. 202 of 1995 shall stand vacated."

2. The present proceedings are filed alleging contempt of the aforesaid directions issued by this Court.

3. In the affidavit filed on behalf of the State Government it is stated that though the State is taking sincere steps for implementing the directions, on account of certain difficulties it is not possible to completely implement the said directions. One of the grounds stated is that the local fishermen are obstructing in implementation of the aforesaid directions.

4. We have heard Mr. Devadatt Kamat, learned senior counsel appearing for the State.

5. The perusal of the information given under the Rights to Information Act, 2005, the contempt petitioner on 09.09.2021 would reveal that an area of over 15051.39 acres of Kolleru Wildlife Sanctuary is under control encroachment.

6. Though the Kolleru Lake expands to 901 sq. km., only an area of 308.55 sq. km. has been notified as a Wildlife Sanctuary.

7. The information given under the Right to Information Act, 2005 to the contempt petitioner on 08.06.2024 would reveal that an area of 6908.48 hectares is under illegal Aquaculture in the Kolleru Wildlife Sanctuary.

8. It is to be noted that under Rule 5 of the Wetland (Conservation and Management) Rules, 2017 (hereinafter referred to "2017 Rules"), the Central Government is bound to constitute a State Wetland's Authorities in each State.

9. We are informed by Mr. K. Parameshwar, learned Amicus Curiae as well as Mr. Devadatt Kamat, learned senior counsel appearing for the State that such committees/authorities have already been

constituted. However, the question is as to whether the said committees/authorities are functioning and meeting at least thrice in a year or not as required under the mandate of clauses (7) and (8) of the Rule 5 of 2017 Rules.

10. Another aspect that requires consideration is with regard to the demarcation of the wetland boundaries supported by accurate digital maps with coordinates and validated by ground truthing.

11. It is informed to us that the said work is under progress. It is further informed that vide order dated 11.12.2024, a Coordinate Bench of this Court had already directed the said work to be completed within a period of three weeks from the date of the said order.

12. We find that the insofar as reason given by the State with regard to the opposition by local fishermen is concerned, the same is without merit.

13. It will be relevant to refer the following observations of this Court in its order dated 10.04.2006, which reads as under:

“...We are informed that in the previous year on account of these bunds/fish tanks free flow of water into the sea was blocked for 40 days. In any event, the rights of those fishermen surviving on a traditional method of fishing have not been taken away, they have been duly protected. Only those who had illegally constructed bunds and who were using harmful manures have been prevented from doing so by reason of the said Notification. The State government has fulfilled its obligation by issuing such Notification. When the rights of the fishermen to do fishing by traditional methods have not been taken away, and when the material placed on record before us shows that there is obstruction to the free flow of water in the lake bed area due to raising of bunds whereby the retention capacity of the lake is diminished, the government is right in regulating the rights under the said Notification. If such encroachments are not removed immediately the right of the farmers in the upstream mandals to do cultivation would be in jeopardy,

consequently, it is their right to live guaranteed under Article 21 of the Constitution which is violated."

14. It could thus be seen that the directions issued by this Court do not, in any way, effect the rights of those fishermen surviving on a traditional method of fishing. It is clear that even under the notification issued by the State Government under Section 26A of the Wildlife Protection Act, 1972, the rights of such fishermen have duly been protected. It is only those who had illegally constructed bunds and who were using harmful manures have been prevented from doing so by the said Notification.

15. It was further found from the material placed on record before this Court that there is obstruction to the free flow of water in the lake bed area due to raising of bunds, whereby the retention capacity of the lake is diminished. The Court has further found that on account of such encroachments, the right of the farmers in the upstream mandals to do cultivation would also be in jeopardy.

16. It could further be seen that the Court has specifically rejected the objections of the objectors that they have made huge investments over the years and that they were permitted to put up bunds under permission given by the Collector.

17. The Court further found that Section 29 of the Wildlife Protection Act, 1972 specifically prohibits the commercial activities inside the Sanctuary and the commercial activity which diverts, stops or increases the flow of water into or outside the sanctuary is strictly prohibited.

18. It could thus be seen that the Notification of the State Government as well as the direction of this Court do not, in any

way, come in the way of fishing rights of the fishermen, who were doing fishing in a traditional way. What is prohibited, is only the huge commercial aquaculture which prohibit the free flow of water and endangers the status of the wildlife.

19. The contempt petition further alleges that though Rule 4 of the 2017 Rules, *inter alia*, strictly prohibits the use of Wetlands for conversion for non-wetland uses, solid waste dumping and discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements and mandates the wetland shall be conserved and managed in accordance with the principle of wise use, the provisions of the said rule are followed in breach. The photographs have been placed on record to show that the land in question is not only being encroached but is also used for solid waste dumping and allegations have also been made that the discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements development is permitted in Kolleru Lake.

20. In that view of the matter, we are of the opinion that the State ought to have had a dialogue with the opposing farmers and educated them that neither the Government Notification nor the directions of this Court would cause any hindrance in their continuing with their traditional fishing activities.

21. In any case, when such an activity is prohibited by a statute, the same cannot be permitted. If necessary, the State will have to deal with such a situation with an iron hand.

22. We, therefore, expect the State to complete the demarcation

and truthing as observed by the Coordinate Bench of this Court within the time specified therein.

23. We also expect the State inform us on the next date of hearing as to what concrete steps, it proposes to take for removal of unauthorized encroachment in the Kolleru Wildlife Sanctuary.

24. List on 19.03.2024.

[5] IA No. 268213 of 2024 and 268214 of 2024

1. It is the contention of the applicants that those who were allotted lands in the year 2003 are now sought to be evicted on the basis of the order passed by this Court on 07.05.2002.

2. It is their further contention that land allotted to the applicants is not on a forest land and the allotment of land to them is in accordance with the policy of Andaman & Nicobar Administration.

3. *Prima facie*, we find that the order of this Court dated 07.05.2002 is with regard to the forest land and would not be applicable to any other land allotted for any other purposes if it is not a forest land.

4. Learned counsel appearing for the Andaman and Nicobar Administration seeks time to take instructions.

5. List on 19.02.2025

[6 (iv)] I.A. Nos. 2771-2772 OF 2009 WITH I.A. NOS. 172553 AND 172555 OF 2024 WITH I.A. NO. 177996 OF 2024 AND [v] I.A.Nos. 111725 AND 154041 OF 2018 in I.A. Nos. 2771-2772/2009]

1. It is informed by Shri Nishant R. Katneshwarkar, learned counsel appearing for the State that the directions issued by this Court on 09.09.2024 stand duly complied with and compliance

affidavit in that regard is also placed on record.

2. Shri Yashraj Deora, learned senior counsel appearing for the applicant does not dispute that position.

3. Hence, these applications are disposed of as having served their purpose.

[6] (i) I. A. No. 2079 OF 2007 [ii] I.A Nos. 2301-2302 OF 2008 AND [iii] I.A. Nos. 3044-3045 OF 2011 AND [vi] I.A. NO. 254946 OF 2023 in I.A. No. 2301-2302/2007 WITH I.A. NO. 39711 OF 2024 in I.A. No. 254946/2023 AND WRIT PETITION(C)NO. 301 OF 2008 WITH I.A. NO. 9108 OF 2024

1. Heard in part.

2. For further arguments, list these matters/applications on 22.01.2025.

[7] I.A. NOS.79569, 79576 OF 2019 ETC.

List on 19.02.2025.

[8] I. A. Nos. 118236 AND 129623 OF 2020 IN I. A. NO. 502 AND I.A. No. 69399 OF 2021 AND I.A. No. 144539 OF 2021 IN I.A. NO. 179389/2018 AND I.A. No. 13413 OF 2023 [CEC REPORT NO. 2/2023), CEC IN I.A. NO. 179389/2018] AND I.A. No. 217138 OF 2024

List on 19.02.2025.

IA Diary Nos. 14852, 14853, 14936 of 2025

List on 22.01.2025.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)