

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Original Application No. 19/2012

Subir Mario Chowfin V/s Union of India & Ors.

CORAM: HON'BLE SHRI JUSTICE S.N. HUSSAIN, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE SHRI RANJAN CHATTERJEE, EXPERT MEMBER
HON'BLE SHRI BIKRAM SINGH SAJWAN, EXPERT MEMBER

Applicant / Appellant : Mr. Ritwick Dutta, Advocate
Respondent No. 1 : Ms. Syed Amber, Adv. for Ms. Neelam Rathore, Adv.
Respondents No. 2to7 : Dr. Abhishek Atrey and Ms. Babita Tyagi, Adv.
Respondent No. 8 : Mr. Mukesh Verma, Advocate

Date and Remarks	Orders of the Tribunal
Order No. 24 September 11, 2013	<p>Heard Learned Counsel appearing for the Applicant, Learned Counsel appearing for the Respondent No. 1 (MoEF), Learned Counsel appearing for the Respondents No. 2 to 7 and Learned Counsel appearing for the Respondent No. 8 (Uttarakhand State Pollution Control Board).</p> <p>The area under dispute is 765 acres of land which falls within the excess land of the ceiling area of the joint ownership and the question is whether the term "forest" under the Forest (Conservation) Act, 1980 can be applied to the said area.</p> <p>When this case was taken up on 06.08.2013, it was stated by Learned Counsel for the Applicant that the report of the Expert Committee as directed by the Hon'ble Apex Court had not been prepared. He sought time to file on record a copy of the Survey of India Map. Learned Counsel for the State of Uttarakhand also sought time to take information whether the duly constituted Committee has conducted the survey in accordance with the directions of the Apex Court in the case of "<i>T.N. Godavarman Thirumulpad Vs. Union of India & Ors.</i>"</p> <p>On the next date i.e. on 30.08.2013, when this matter again was heard, it was found that "the State of Uttarakhand had not</p>

constituted a separate Expert Committee for the purpose of identifying the forest area as per the directions of the Hon'ble Apex Court. The Learned Counsel appearing for the State undertook to find out the correct position and produce the records in that regard before this Tribunal on the next date of hearing”.

As the matter stands today, there is no report with respect to the aforesaid area under dispute in this case.

In the said circumstances, it is agreed between the parties that a separate Expert Committee should be constituted by the State Government with a representative of the MoEF as Member thereof for the purpose of field verification and for establishing whether the area under dispute qualifies to be 'forest' for the purpose of the Forest (Conservation) Act, 1980. If the Expert Committee so desires, opportunity may be given to listen the grievance of the local people residing in the said area, in question.

In course of arguments, Learned Counsel for the Applicant has raised a point that in the area in question, 'non-forestry' activities are being carried out with the help of JCB Machines, etc. Learned Counsel for the State of Uttarakhand submits that he is not aware of the said fact and he has to take instructions in that regard. The Expert Committee, so appointed, shall specifically consider the aforesaid aspect of the matter also.

If any act is being done in violation of the earlier order of this Tribunal, the Collector of the District should consider it as a very serious matter and take appropriate steps in accordance with law.

Stand over to 23rd September, 2013.

....., JM
(S.N. Hussain)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. A.R. Yousuf)

....., EM
(Ranjan Chatterjee)

....., EM
(B.S. Sajwan)

