

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

**Miscellaneous Application No. 61/2014**

**In**

**Original Application No.137/2013 (CZ)**

**CORAM:**

**Hon'ble Mr. Justice Dalip Singh  
(Judicial Member)**

**Hon'ble Mr. P.S.Rao  
(Expert Member)**

**BETWEEN:**

Jalindar Piraji Dhanwate  
S/o Late Shri Piraji Dhanwate,  
Aged about 43 years,  
R/o Near Shiv Mandir,  
Ram Nagar,  
Khandwa (M.P.)

Versus

.....Applicant

1. Shri Nageen Chandra Bansal  
S/o Shri Kachru Mal Bansal,  
Aged about 50 years,  
R/o Ram – Hrishanganj,  
Infront of Mandi Gate,  
Khandwa (M.P.)
2. Shri Rakesh Bansal  
S/o Shri Kachru Mal Bansal,  
Aged about 45 years,  
R/o Ram – Hrishanganj,  
Infront of Mandi Gate,  
Khandwa (M.P.)
3. Shri Jagannath Mane  
S/o Shri Shivaji Mane,  
Aged about 46years,  
R/o A -576 Ram Nagar,  
Khandwa (M.P.)
4. The State of Madhya Pradesh  
Through Secretary Department of Revenue,  
Mantralaya, Vallabh Bhawan,  
Bhopal (M.P.)
5. The Secretary  
Department of Mines and Minerals,  
Mantralaya, Vallabh Bhawan,  
Bhopal (M.P.)
6. The Collector  
District Khandwa (M.P.)
7. District Mining Officer,  
District Khandwa (M.P.)

.....Respondents

**Counsel for Applicant :**

**Shri Enosh George Carlo, Advocate**

**Counsel for Respondent no. 1, 2 & 3 :**

**Shri Shekhar Sharma, Advocate**

**Counsel for Respondent no. 4 & 7 :**

**Shri Sachin K.Verma, Advocate**

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**Dated : February 5<sup>th</sup> , 2014**

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**Delivered in the open Court by**  
**Hon'ble Mr. Justice Dalip Singh, Judicial Member**

This application has been filed by the Applicant questioning the grant of mining lease and / or establishment of Stone Crusher by the Respondent No. 1, 2 & 3 on separate pieces of land in Khandwa District. It is alleged that the Respondent No. 1 has been granted a mining lease over an extent of 10.470 hectares in Khasra No. 302 in Village Bhavsinghpura, Tahsil and District Khandwa for a period of 10 years with effect from 25.02.2009. It is alleged that the entire land in Khasra No. 302 was recorded in the revenue records since 1973-74 as '*Chhote Bade Jhad Ka Jungle*' as such it is *alleged* that with the coming into force of the Forest Conservation Act, 1980 the aforesaid Khasra No. 302 being recorded as 'Forest' no non forest activity is permissible in Khasra No. 302.

2. The Respondent No. 1 on the other hand has contended that the land in question is not recorded as '*Chhote Bade Jhad Ka Jungle*' and that as per the revenue record of the year 1985-86 filed before us as Annexure (A-3) it is recorded as 'Ghaas' with the remark '*Charai Ke Liye Surakshit*'. The revenue record of the years 1980-81, 1981-82, 1983-84, 1984-85, 1985-86, 1986-87, 1987-88, 1988-89, 1989-90 as well as upto 1993-94 have been filed before us according to which as per the submission of the Learned Counsel for the Respondent No.1 even on the date of coming into force of the Forest Conservation Act, 1980 on 25.10.1980 the Khasra No. 302 was recorded as 'Ghaas' and not as '*Chhote Bade Jhad Ka Jungle*' as contended by the Applicant on the basis of Annexure (A-2).

3. It has further to be considered whether in compliance of the directions issued by the Hon'ble Supreme Court in its order dtd. 12.12.1996 in the case of T.N. Godavarman Vs. Union of India what status was granted to the disputed land in Khasra No. 302 in Village Bhavsinghpura by the Expert Committee appointed in the State of Madhya Pradesh in its report given in January, 1997 as to whether the aforesaid land was recorded as 'forest land'

or otherwise irrespective of the ownership over the said land i.e. whether it was recorded in the name of the Forest Department or the Revenue Department.

4. This being the disputed question of fact with the allegations that the record has been tampered with, the matter needs to be investigated and the issues pertaining to the status of the land, its character as well as the ownership on the two respective dates of 25.10.1980 and January, 1997 have to be enquired into as also on the date of the allotment of mining lease on 25.02.2009. If there has been any change in the entries post the aforesaid two dates it also requires to be enquired into whether it has been done in accordance with the law or not. Based upon the aforesaid findings the District Collector, Khandwa shall verify record, conduct enquiry and take a decision with regard to the validity of the allotment of mining lease as to whether it is in accordance with law after affording opportunity of being heard to both the sides and also by allowing production of any evidence filed with affidavit of the parties in support of their respective claim.

5. The second dispute has been raised with respect to the granting of mining lease to the Respondent No. 2 over an extent of 2.5 hectares of land out of Khasra No. 302 in Village Bhavsinghpura on 16.12.2007. Since the land is the same, the same question which has been highlighted above in so far as granting of mining lease to the Respondent No. 1 is concerned, shall also be investigated in this case also and enquired into by the District Collector and findings recorded after affording reasonable opportunity of hearing to all the concerned parties.

6. It has further been alleged in the application that the Respondent No.2 has further been allotted with mining lease in Khasra No. 584 in Village Roshni, Block Khalwa, Tahsil Harsood, District Khandwa over an extent of 4.00 hectares. The dispute in so far as Khasra No. 584 is concerned as alleged by the Applicant, it is recorded as '*Chhote Bade Jhad Ka Jungle*' whereas as per the reply filed by the Respondent No. 2 based upon the revenue record from the year 1984-85, the same is recorded as '*Ghaas*' and not '*Chhote Bade Jhad Ka Jungle*'. Therefore, here also the question which would require consideration and determination is with regard to the status of the land on the two dates mentioned above i.e. 25.10.1980 and January, 1997. The District Collector, Khandwa therefore shall enquire into

this also and arrive at a finding whether the lease granted to the Respondent No. 2 on the aforesaid land in Khara No. 584 is in accordance with the law or not.

7. The third dispute which was raised by the Applicant is in respect of granting permission for mining lease and establishment of Stone Crusher by the Respondent No. 3 in private land in Khasra No. 91/1 & 91/2 over an area of 0.40 hectare which is allegedly adjoining just 10 meters from the forest area of Khasra No. P-979. It is stated by the Respondent No. 3 that no mining activity is being carried out over the said piece of land and he has already surrendered the mining lease. The Applicant counters the same by alleging that the illegal mining is still being carried out by the Respondent No. 3 both in private land and in the adjoining forest land notwithstanding the surrender of the mining lease.

8. In view of the above, the District Collector, Khandwa shall enquire into the allegation of illegal mining and illegal establishment and operation of Stone Crusher despite surrender of mining lease by Respondent No. 3. The Collector should conduct enquiry either himself or through to responsible Officers one each from the Mining Department as well as from the Revenue Department.

9. However, the Learned Counsel appearing for the Respondent No. 3 submits that in view of the fact that they have surrendered the mining lease over the Khasra No. 91/1 and 91/2 they are not operating the crusher unit and the plant and machinery, if any existing on the disputed site will be removed within 60 days.

10. We therefore dispose of this application with the direction to the District Collector, Khandwa to investigate and enquire into the factual situation as has been alleged by both the parties and arrive at a conclusion based upon the correct position of the revenue record and after affording opportunity to both sides and accordingly either permit or cancel the mining leases in accordance with law. **The District Collector, Khandwa is directed to decide the aforesaid issue on or before 31<sup>st</sup> May, 2014.**

11. We may further add that the Registrar shall send duly attested photocopies of the pleadings as well as the documents filed by both the parties before this Tribunal to the District Collector, Khandwa and in case the District Collector, Khandwa finds any of the party having tampered with or manipulated the record, he shall initiate proceedings for prosecution in accordance with law against the persons responsible. The parties are directed

to appear with a certified copy of this order before the District Collector, Khandwa on 24.02.2014. The Registrar shall ensure the transmission of the record as directed above so as to reach the office of the District Collector, Khandwa before 21.02.2014.

12. The decision taken by the District Collector, Khandwa along with consequential orders shall be submitted to the Tribunal by the District Collector, Khandwa and on receipt of the same, the same by the Registrar, shall be brought to the notice of the Tribunal by listing the matter for compliance on **02.07.2014**.

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Misc. Application No. 61/2014 has been filed on behalf of the Respondent No. 1 & 2 for taking on record the additional submissions. The same has been considered during the hearing. Accordingly, the Misc. Application No. 61/2014 stands disposed of.

**(Mr. Justice Dalip Singh)**  
**Judicial Member**

**(Mr. P.S.Rao)**  
**Expert Member**

Bhopal;  
February 5<sup>th</sup>, 2014

**NGT**