

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No. 102/2023/EZ  
(Earlier O.A. No.727/2022/PB)

**IN THE MATTER OF:**

Ramroop Rana,  
Shiv Mandir Chowk, Vijaynagar, Banka,  
District-Banka, Bihar,  
Pin – 813102,

...Applicant(s)

Versus

1. The Principal Secretary,  
Water Resource Department, Patna,  
Government of Bihar,  
Sinchai Bhawan, Patna, Bihar,
2. District Magistrate, Banka, Bihar,  
Collectorate Building, Banka, Bihar,  
Pin – 813102,
3. Bihar State Pollution Control Board,  
Parivesh Bhawan, Plot No.NS-B/2,  
Patliputra Industrial Area, Patliputra, Patna,  
Bihar – 800010,
4. Anupam Garg,  
S/o Mr. Shyamsunder Agarwal,  
R/o Karhariya, Banka,
5. Panchanan Jha @ Panchu Jha,  
S/o Late Janardan Jha,  
R/o Vijaynagar, District-Banka,

...Respondent(s)

Date of hearing: 18.04.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s) : Mr. Surendra Kumar, Advocate for R-1&2,  
Ms. Amrita Pandey, Adv. for R-3, (in Virtual Mode),  
Mr. Abhidipto Tarafdar, Adv. (in Virtual Mode) a/w  
Ms. Arani Guha, Advocate for R-4&5,

## **ORDER**

1. Case called out. No one is present on behalf of the Applicant.
2. Cognizance of Original Application No.727/2022/PB was taken up by the New Delhi Bench of the Tribunal on 18.11.2022 on a letter petition filed by Mr. Ramroop Rana, Resident of Shiv Mandir Chowk, Vijaynagar, Banka, District-Banka, Bihar, alleging illegal encroachments by land mafia including Anupam Garg and Panchu Jha on parts of River Odhani in Banka by filling it with earth and changing its status thereof.
3. It is also alleged that many parts of the river and drains were filled-up and land so acquired was sold.
4. At the time of admission, the Tribunal had constituted a Joint Committee comprising of; Regional Office, MoEF&CC, Ranchi, Jharkhand, Principal Secretary, Water Resources Department, Government of Bihar, and District Magistrate, Banka, Bihar. The Committee was required to visit the site in question and verify the factual position and to submit its Report.
5. Thereafter, the Original Application No.727/2022/PB was transferred to the Eastern Bench of the Tribunal at Kolkata and re-numbered as Original Application No.102/2023/EZ.
6. Upon transfer, the following were impleaded as Respondents by this Tribunal vide its order dated 29.08.2023:-
  - i) The Principal Secretary, Water Resource Department, Patna, Government of Bihar,
  - ii) District Magistrate, Banka, Bihar,
  - iii) Bihar State Pollution Control Board,

- iv) Anupam Garg, S/o Mr. Shyamsunder Agarwal, R/o Karhariy, Banka (Private Respondent), and
  - v) Panchanan Jha @ Panchu Jha, S/o Late Janardan Jha, R/o Vijaynagar, District-Banka, (Private Respondent),
7. Accordingly, a Factual and Action Taken Report of the Joint Committee dated 28.12.2022 has been filed by the Member Secretary, Bihar State Pollution Control Board, Respondent No.3, which reads as under:-

**“Preliminary Report on the site visit of River ODHANI in Banka district of Bihar in accordance with the order dated 18/11/2022 of Hon’ble NGT (PB), New Delhi**

*The following officers were present during the site visit:*

- i. *Shri Madhav Kumar Singh, Addl. District Magistrate, Banka,*
- ii. *Shri M. Rajeshwar Prasad, Scientist C, MoEF&CC, Ranchi,*
- iii. *Shri Suresh P Roy, Regional Officer, BSPCB, Bhagalpur,*
- iv. *Shri Arun Kumar, Executive Engineer, Water Resources Department Banka,*
- v. *Sri Dina Nath Singh, Executive Officer, Municipal Council, Banka,*
- vi. *Shri Kumar Ranjan, Mineral Development Officer, Banka,*
- vii. *Smt. Namika Nayak, Assistant Engineer,*
- viii. *Shri Pritam, Revenue Officer, Banka,*
- ix. *Shri Rakesh Kumar Jha, Jr. Engineer, Flood Control Division, Banka,”*

1. *The Joint Committee observed that the River Bank has been encroached for construction of the road for the area under the reference (plotted area dotted with concrete pillars).*
2. *The extent of encroachment of the River Bank is being estimated and the stretch all along the embankment is being verified jointly by the Water Resources and Land and Revenue Department from the records available with them.*
3. *The Committee viewed that plotting of land has been made by developer immediately adjacent to the river bank and will be verified from the revenue records as well as whether any approval*

*or licences have been taken from the local Town Planning Authorities.*

*4. Road has been constructed in about 2-3 kms stretch passing adjacent to the plotting of land made which is leading to nearby villages.*

*5. The detailed report will be prepared after getting all data/reports/information from all the concerned departments and compilation will be made thereafter.”*

8. Affidavit dated 09.01.2024 has been filed by the District Magistrate, Banka, Respondent No.2, stating therein that on 07.03.2023 vide Memo No.893, the District Magistrate, Banka, issued notice to ten persons who are Jamabandi Raiyats who are stated to have bought and sold lands on the edge of the Odhani river and have poured soil on the edge of the river and in this act they were assisted by the Respondent Nos.4&5, Anupam Garg and Panchu Jha.
9. It is also stated that an unconstructed road (Kachha Road) has been made after pouring soil on the edge of the river without obtaining any permission from the competent authority. In the light thereof, directions have also been issued to the District Sub-Registrar, Banka, restraining sale and purchase of the said edge of the river and E.E., F.C, Bounsi, was directed to remove the encroachment from the said land.
10. In the affidavit, it is further stated that the Odhani river flows from South to North from the left of Masuria Village and is a rain fed river, and in Khatiyani it is recorded as 'RIVER', appertaining to Revenue Village Ward No.12, Khata No.420, Khesra Nos.139 and 140, having total area of 16.50 hectares, whereas Khata No.420, Khesra Nos.143 and 148 it is recorded as 'Bandh' and in Ward No.11, Khesra No.662 it is also recorded as 'Bandh'. It is also stated that Khesra No.139 is on the edge of the river on which there is an

unconstructed (kachha) road. It is stated that on taking measurements, it was found that 1 – 2 feet soil had been poured on Khesra No.139 upto a length of 601 meters and 4 meter width to create the said unconstructed road.

11. It is also stated that as per the 'Marks' found adjacent to the edge of the river, the said land was put up for sale/purchase. In this view of the matter, as per Revenue Records, a show cause notice was issued to the Jamabandi Raiyats and their helpers of Ward No.12, on 07.03.2023 vide Memo No.893 and the District Sub-Registrar, Banka, was restrained from registration of sale and purchase of the land adjoining part of the edge of the river. It is also stated that the Executive Engineer, Rural Works Division-01, Banka, was also issued show cause notice with regard to construction of road on the edge of the said Odhani river and the Anchal Adhikari, Banka, was directed to immediately remove the encroachment from the edge of the said river and its adjoining area and the Executive Engineer, Flood Control Division, Bounsi, was also directed to ensure that no encroachment be made on the river front in question.
12. In the affidavit, it is further stated that on 21.11.2023 a review meeting was held and directions were issued to the Executive Engineer, Flood Control Division, Bounsi, to make free the land in question from encroachment and ban was imposed on sale and purchase of the land concerning Jamabandi in question. It is further stated that the Jamabandi Raiyats were exonerated of the charges after considering their response and the Sub-Division Officer (Flood Control Sub-Division) was directed to file encroachment case before the Anchal Adhikari, Banka. The Anchal

Adhikari was also directed to initiate encroachment proceedings for removal of encroachment made on the road in question. It is also stated that it was informed that land encroachment proceedings being Case No.08/2023-24 for removal of encroachment on unconstructed road on the land appertaining to Revenue Ward No.12, Khata No.420, Khesra No.139 is recorded as 'Gairmajarua Aam' land and its nature is 'River' and a request has been made to provide police force along with Magistrate including fire brigade and ambulance. It is further stated that on the date fixed, the Circle Officer, Banka, with the help of police force and Magistrate, has removed the encroachment.

13. Further affidavit dated 12.04.2024 has been filed by the Respondent No.2, reiterating the facts already stated in the previous affidavit. In addition, it has been stated that a further spot verification was carried out on 02.04.2024 and it was found that encroachment in the said area and adjoining area has been removed on 18.12.2023.
14. The Respondent Nos.4&5, Anupam Garg and Panchanan Jha, respectively have filed affidavits both dated 21.02.2024 denying the allegations in the complaint and stating that their names have wrongly been included with that of the encroachers for purposes of harassing them but in the affidavit it is also stated that the road in question has no value or purpose in their day to day life and they do not stay in the area. It is also stated that a letter dated 31.12.2022 has been to the District Magistrate by the residents of Villages-Churaelli, Hasia Bahra and Nimadih and other villagers of Ward Nos.19 and 20 mentioning the difficulties faced by them due to the Kachha Road and this letter has been attested by 58

residents of the 14 villages mentioning that the presence of the road is crucial.

15. We have heard the learned Counsel for the parties and perused the documents on record.
16. From the documents on record, it is undisputed that a Kachha Road was being constructed on the edge of the Odhani river encroaching into the said river by persons mentioned in the affidavit of the District Magistrate, Banka, including the Respondent Nos.4&5, without any permission of the competent authority.
17. Encroachment into a water body whether it is a pond or lake or river or otherwise is violation the Water (Prevention and Control of Pollution) Act, 1974, but also deleterious to the environment as such. Construction of such a road cannot be justified by saying that the same is required by the villagers of some villages. Even otherwise, from the documents on record and the affidavit of the District Magistrate, Banka, it is established that a Kachha Road was being constructed by the Respondent Nos.4&5 along with others, which is further confirmed through letter Nos.893 and 895 of the District Magistrate, Banka, both dated 07.03.2023 (Annexure-1, colly of the paper book), addressed to the Member Secretary, Bihar State Pollution Control Board, wherein he has confirmed that from spot inspection it has been established that the Kachha Road was being constructed by Mr. Keshav Jha, S/o Mr. Narayan Jha, Mr. Kailash Chandra Jha, Mr. Amresh Jha, S/o Mr. Arun Chandra Jha and Mr. Ravi Kumar Sinha, S/o Mr. Avinash Chandra Sinha, by pouring soil on the edge of the river and in this act they were assisted by Mr. Anupam Garg and Mr.

Panchu Jha (Respondent Nos.4&5 herein). As of today, encroachments have been removed, however, construction of illegal Kachha Road by filling-up of soil of height 1-2 feet with a length of 601 meters and 4 meters width has been established by the aforesaid persons.

18. We are surprised that inspite of the findings noted by the District Magistrate, Banka, no criminal proceedings have been initiated against the violators who have poured soil to the edge of the river causing damage to the environment. We, therefore, direct the District Magistrate, Banka, to take appropriate action against the violators in accordance with law.
19. The Bihar State Pollution Control Board as well as the District Magistrate, Banka, shall also determine the Environmental Compensation against the said violators, Respondent Nos.4&5, and others and recover the same in accordance with law.
20. With the aforesaid observations, the Original Application No.102/2023/EZ is accordingly disposed of.
21. There shall be no order as to costs.

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**B. Amit Sthalekar, JM**

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**Dr. Arun Kumar Verma, EM**

April 18, 2024,  
Original Application No. 102/2023/EZ  
(Earlier O.A. No.727/2022/PB)  
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